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Representative Dever

**Cosponsors: Representatives Anielski, Antonio, Blessing, Boggs, Lepore-Hagan,
Rogers, Sweeney**

**Senators Coley, Eklund, Bacon, Dolan, Hackett, Hottinger, Huffman, O'Brien,
Oelslager, Schiavoni, Terhar, Wilson**

A BILL

To amend sections 2109.41, 2323.58, 2323.581, 1
2323.582, 2323.583, 2323.584, 2323.585, 2
2323.586, 2323.587, and 4705.09 of the Revised 3
Code relative to transfers of structured 4
settlement payment rights and relative to the 5
placement of fiduciary funds in interest on 6
lawyer's trust accounts. 7

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 2109.41, 2323.58, 2323.581, 8
2323.582, 2323.583, 2323.584, 2323.585, 2323.586, 2323.587, and 9
4705.09 of the Revised Code be amended to read as follows: 10

Sec. 2109.41. (A) Immediately after appointment and 11
throughout the administration of a trust, but subject to section 12
2109.372 of the Revised Code and except as provided in division 13
(C) of this section, every fiduciary, pending payment of current 14
obligations of the fiduciary's trust, distribution, or 15
investment pursuant to law, shall deposit all funds received by 16

the fiduciary in the fiduciary's name as such fiduciary in one 17
or more depositories. Each depository shall be a bank, savings 18
bank, savings and loan association, or credit union located in 19
this state. A corporate fiduciary, authorized to receive 20
deposits of fiduciaries, may be the depository of funds held by 21
it as fiduciary. All deposits made pursuant to division (A) of 22
this section shall be in such class of account as will be most 23
advantageous to the trust, and each depository shall pay 24
interest at the highest rate customarily paid to its patrons on 25
deposits in accounts of the same class. 26

(B) The placing of funds in such depositories under the 27
joint control of the fiduciary and a surety on the bond of the 28
fiduciary shall not increase the liability of the fiduciary. 29

(C) A fiduciary of a trust or estate may transfer funds 30
received by the fiduciary in the fiduciary's name as such 31
fiduciary to the fiduciary's attorney for deposit in an interest 32
on lawyer's trust account established under division (A) (1) (b) 33
of section 4705.09 of the Revised Code that is maintained by the 34
attorney if both of the following conditions are satisfied: 35

(1) The attorney, in consultation with the fiduciary, has 36
determined that the funds are nominal in amount and will be held 37
in the interest on lawyer's trust account for a short period of 38
time. 39

(2) The probate court, upon petition by the fiduciary, has 40
approved the deposit. 41

Sec. 2323.58. As used in this section and sections 42
2323.581 to 2323.587 of the Revised Code: 43

(A) "Annuity issuer" means an insurer that has issued ~~an~~ 44
~~insurance~~ a contract that is used to fund periodic payments 45

under a structured settlement. 46

(B) ~~"Applicable law "Assignee" means any of the following,~~ 47
~~as applicable in interpreting the terms of a party acquiring or~~ 48
~~proposing to acquire structured settlement agreement:~~ 49

~~(1) The laws of the United States;~~ 50

~~(2) The laws of this state, including principles of equity~~ 51
~~that are applied in the courts of this state;~~ 52

~~(3) The laws of any other jurisdiction if any of the~~ 53
~~following applies:~~ 54

~~(a) The laws of that other jurisdiction govern the~~ 55
~~structured settlement.~~ 56

~~(b) A court or a responsible administrative authority~~ 57
~~approved the structured settlement agreement under the laws of~~ 58
~~that other jurisdiction.~~ 59

~~(c) The transfer of payments under the structured~~ 60
~~settlement is subject to the laws of that other jurisdiction~~ 61
~~payment rights from a transferee of those rights.~~ 62

(C) "Dependent" ~~means~~ includes a spouse of a payee, a 63
minor child of a payee, ~~or and~~ any other member of the family of 64
a payee or other person for whom, by law or by court order or 65
~~decree,~~ the payee is legally obligated to provide support, 66
including alimony. 67

(D) "Discounted present value" means the ~~fair~~ present 68
value of ~~the~~ future payments ~~under a structured settlement that~~ 69
~~is~~ determined by discounting those payments to the present, 70
using the most recently published applicable federal rate for 71
determining the present value of an annuity, as issued by the 72
United States internal revenue service. 73

(E) "Gross advance amount" means the sum payable to the 74
payee or for the payee's account as consideration for a transfer 75
of structured settlement payment rights before any reductions 76
for transfer expenses or other deductions to be made from such 77
consideration. 78

(F) "Independent professional advice" means the advice of 79
an attorney, a certified public accountant, an actuary, or any 80
other licensed professional adviser ~~if all of the following~~ 81
~~apply:~~ 82

~~(1) The payee has engaged the services of the licensed~~ 83
~~professional adviser to render advice concerning the legal and~~ 84
~~other implications of a transfer of structured settlement~~ 85
~~payment rights.~~ 86

~~(2) The licensed professional adviser has signed a~~ 87
~~statement to the effect that the licensed professional adviser~~ 88
~~rendered advice to the payee concerning the legal and other~~ 89
~~implications of a transfer of structured settlement payment~~ 90
~~rights.~~ 91

~~(3) The licensed professional adviser is not affiliated in~~ 92
~~any manner with, referred by, or compensated in any manner by~~ 93
~~the transferee of the structured settlement payment rights.~~ 94

~~(4) The compensation of the licensed professional adviser~~ 95
~~is not affected by whether or not a transfer of structured~~ 96
~~settlement payment rights occurs.~~ 97

~~(F)~~ (G) "Interested party" includes the payee means, with 98
respect to a structured settlement, the payee, any beneficiary 99
irrevocably designated under the annuity contract to receive 100
payments following the payee's death, the annuity issuer, the 101
structured settlement ~~agreement~~ obligor, and any other party to 102

the structured settlement that has continuing rights or 103
obligations to receive or make payments under the structured 104
~~settlement agreement.~~ 105

~~(G)~~ (H) "Net advance amount" means the gross advance 106
amount less the aggregate amount of the actual and estimated 107
transfer expenses required to be disclosed under division (E) of 108
section 2323.582 of the Revised Code. 109

(I) "Payee" means an individual who is receiving periodic 110
payments under a structured settlement ~~agreement~~ that are 111
excludable from the individual's gross income under federal 112
income taxation laws applicable to that individual and who 113
proposes to make a transfer of the rights to receive those 114
periodic payments. 115

~~(H)~~ (J) "Periodic payments" includes both continuing 116
monthly or other periodic payments and scheduled future lump-sum 117
payments under a structured settlement. 118

~~(I)~~ (K) "Qualified assignment agreement" means an 119
agreement that provides for a qualified assignment, as defined 120
in section 130 of the "Internal Revenue Code of 1986," 100 Stat. 121
2085, 26 U.S.C.A. 130(c), as amended, ~~through an assignment of~~ 122
~~the liability under a structured settlement agreement to make~~ 123
~~periodic payments as damages, on account of personal injury or~~ 124
~~sickness.~~ 125

~~(J) "Responsible administrative authority" means any~~ 126
~~government authority of another state vested by the law of that~~ 127
~~state with the original exclusive jurisdiction over the settled~~ 128
~~claim resolved by a structured settlement.~~ 129

~~(K) "Settled claim" means the original tort claim resolved~~ 130
~~by a structured settlement.~~ 131

(L) "Structured settlement" means an arrangement for 132
periodic payments of damages for ~~injury to a person~~ personal 133
injuries or sickness that is established by a settlement or a 134
court judgment in resolution of a tort claim. 135

(M) "Structured settlement agreement" means an agreement, 136
judgment, stipulation, or release that embodies the terms of a 137
structured settlement, including the rights of a payee to 138
receive periodic payments. 139

(N) "Structured settlement obligor" means the party that 140
has the obligation to make continuing periodic payments to the 141
payee under a structured settlement agreement or a qualified 142
assignment agreement. 143

(O) "Structured settlement payment rights" means the 144
rights under a structured settlement agreement to receive 145
periodic payments from a structured settlement obligor or an 146
annuity issuer if either of the following applies: 147

(1) The payee, ~~the structured settlement obligor, or the~~ 148
~~annuity issuer with respect to the structured settlement~~ 149
~~agreement~~ is a resident of this state. 150

(2) The structured settlement agreement was approved by a 151
court in this state. 152

(P) "Terms of a structured settlement" includes the terms 153
of a structured settlement agreement, ~~an insurance~~ the annuity 154
contract, a qualified assignment agreement, and any order or 155
approval by a court, ~~a responsible administrative authority,~~ or 156
other government authority authorizing or approving the 157
structured settlement. 158

(Q) "Transfer" means a sale, assignment, pledge, 159
hypothecation, or any other form of alienation or encumbrance of 160

structured settlement payment rights made by a payee for 161
consideration. "Transfer" does not include the creation or 162
perfection of a security interest in structured settlement 163
payment rights under a blanket security agreement entered into 164
with an insured depository institution, in the absence of any 165
action to redirect the structured settlement payments to that 166
institution, or an agent or successor in interest thereof, or 167
otherwise to enforce the blanket security interest against the 168
structured settlement payment rights. 169

(R) "Transfer agreement" means an agreement that provides 170
for the transfer of structured settlement payment rights from a 171
payee to a transferee. 172

(S) "Transfer expense" means any expense of a transfer 173
that is required under the transfer agreement to be paid by the 174
payee or deducted from the gross advance amount, including but 175
not limited to, court filing fees, attorneys' fees, escrow fees, 176
lien recordation fees, judgment and lien search fees, finder's 177
fees, commissions, and other payments to a broker or other 178
intermediary. "Transfer expense" does not include pre-existing 179
obligations of the payee payable for the payee's account from 180
the proceeds of a transfer. 181

(T) "Transferee" means a party acquiring or proposing to 182
acquire structured settlement payment rights through a transfer 183
of those rights. 184

Sec. 2323.581. No direct or indirect transfer of 185
structured settlement payment rights shall be effective, and no 186
structured settlement obligor or annuity issuer shall be 187
required to make any payment directly or indirectly to a 188
transferee or assignee of structured settlement payment rights, 189
unless the ~~transferee has provided the payee and other~~ 190

~~interested parties with the disclosures required by section~~ 191
~~2323.582 of the Revised Code and the transfer has been approved~~ 192
in advance in a final order of a court of competent jurisdiction 193
~~in accordance with sections 2323.583 and 2323.584 of the Revised~~ 194
~~Code based on express findings by the court of all of the~~ 195
following: 196

(A) The transfer is in the best interest of the payee, 197
taking into account the welfare and support of the payee's 198
dependents. 199

(B) The payee has been advised in writing by the 200
transferee to seek independent professional advice regarding the 201
transfer and has either received that advice or knowingly waived 202
in writing the opportunity to seek and receive that advice. 203

(C) The transfer does not contravene any applicable 204
statute or order of any court or other government authority. 205

Sec. 2323.582. Not less than ten days prior to the date on 206
which a payee ~~becomes obligated under~~ signs a transfer 207
agreement, the transferee shall provide to the payee a separate 208
disclosure statement, in boldface type of the minimum size of 209
fourteen points, setting forth all of the following: 210

(A) The amounts and due dates of the structured settlement 211
payments that would be transferred under the transfer agreement; 212

(B) The aggregate amount of the payments described in 213
division (A) of this section; 214

(C) The discounted present value of the payments described 215
in division (A) of this section, which shall be identified as 216
the "calculation of current value of the transferred structured 217
settlement payments under federal standards for valuing 218
annuities," and the amount of the applicable federal rate used 219

in determining the discounted present value; 220

(D) The gross advance amount ~~payable to the payee in~~ 221
~~exchange for or as consideration for the transfer of the~~ 222
~~structured settlement payments described in division (A) of this~~ 223
~~section;~~ 224

(E) An itemized listing of all ~~brokers' commissions,~~ 225
~~service charges, application fees, processing fees, closing~~ 226
~~costs, filing fees, administrative fees, legal fees, notary~~ 227
~~fees, and other commissions, fees, costs, expenses, and charges~~ 228
~~payable by the payee or deductible from the gross amount~~ 229
~~otherwise payable to the payee as described in division (D) of~~ 230
~~this section~~ applicable transfer expenses, other than attorneys' 231
fees and related disbursements payable in connection with the 232
transferee's application for approval of the transfer, and the 233
transferee's best estimate of the amount of any such fees and 234
disbursements; 235

(F) The net advance amount ~~payable to the payee after~~ 236
~~deduction from the gross amount payable to the payee as~~ 237
~~described in division (D) of this section of all commissions,~~ 238
~~fees, costs, expenses, and charges described in division (E) of~~ 239
~~this section;~~ 240

(G) The ~~quotient, expressed as a percentage, obtained by~~ 241
~~dividing the net amount payable to the payee as described in~~ 242
~~division (F) of this section by the discounted present value of~~ 243
~~the payments described in division (C) of this section~~ effective 244
annual interest rate, which shall be disclosed as follows: "On 245
the basis of the net amount that you will receive from us and 246
the amounts and timing of the structured settlement payments 247
that you are transferring to us, you will, in effect, be paying 248
interest to us at a rate of per cent per year"; 249

(H) The aggregate amount of any penalty ~~and the aggregate~~ amount of any or liquidated damages, ~~including penalties,~~ payable by the payee in the event of any breach of the transfer agreement by the payee;

(I) That the payee has the right to cancel the transfer agreement, without penalty or further obligation, not later than the third business day after the date the agreement is signed by the payee;

(J) That the payee has the right to seek and receive independent professional advice regarding the proposed transfer and should consider doing so before agreeing to transfer any structured settlement payment rights.

Sec. 2323.583. ~~A court of competent jurisdiction may approve~~ Following a transfer of structured settlement payment rights only in a final order that is based on the ~~express findings of the court, and the express findings shall include~~ pursuant to sections 2323.58 to 2323.585 of the Revised Code, all of the following apply:

(A) ~~The transferee has provided to the payee a disclosure statement that complies with section 2323.582 of the Revised Code, and the payee has confirmed the payee's receipt of the disclosure statement, as evidenced by the payee's notarized signature on a copy of the disclosure statement~~ structured settlement obligor and the annuity issuer may rely on the court order approving the transfer in redirecting periodic payments to an assignee or transferee in accordance with the order approving the transfer and shall, as to all parties except the transferee or an assignee designated by the transferee, be discharged and released from any and all liability for the redirected payments. That discharge and release shall not be affected by the failure

of any party to the transfer to comply with sections 2323.58 to 280
2323.585 of the Revised Code or with the court order approving 281
the transfer. 282

~~(B) (1) Except as provided in division (B) (2) of this~~ 283
~~section, the payee has established that the transfer is fair and~~ 284
~~reasonable and in the best interests of the payee and the~~ 285
~~payee's dependents.~~ 286

~~(2) If, on the effective date of the transfer agreement, a~~ 287
~~federal hardship standard exists, the payee has established that~~ 288
~~the transfer meets that hardship standard.~~ 289

~~(C) The payee has received independent professional advice~~ 290
~~regarding the legal and other implications of the transfer.~~ 291

~~(D) If~~ The transferee shall be liable to the structured 292
settlement obligor and the annuity issuer, as follows: 293

(1) For any taxes incurred by the structured settlement 294
obligor or annuity issuer as a consequence of the transfer, if 295
the transfer contravenes the terms of the structured settlement 296
involved, all of the following have been complied with: 297

~~(1) Each dependent whom the payee is legally obligated to~~ 298
~~support by court order or decree, in a written approval and~~ 299
~~waiver, approves the transfer and waives the right to require~~ 300
~~that the structured settlement payments be made to the payee in~~ 301
~~accordance with the terms of the structured settlement.;~~ 302

~~(2) Any court or responsible administrative authority that~~ 303
~~previously approved the structured settlement, other than the~~ 304
~~court from which the approval of the transfer is sought under~~ 305
~~sections 2323.58 to 2323.585 of the Revised Code, has expressly~~ 306
~~approved the transfer in writing~~ For any other liabilities or 307
costs, including reasonable costs and attorneys' fees, arising 308

from compliance by the structured settlement obligor or annuity issuer with the court order approving the transfer or from the failure of any party to the transfer to comply with sections 2323.58 to 2323.585 of the Revised Code. 309
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~~(3) The transferee has provided to the court in which the application for approval of the transfer was filed all of the signed original copies of the approvals required under divisions (D) (1) and (2) of this section.~~ 313
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~~(4) The transferee has furnished each interested party copies of the approvals required under divisions (D) (1) and (2) of this section.~~ 317
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~~(E) The transferee has given written notice of the transferee's name, address, and taxpayer identification number to the annuity issuer and the structured settlement obligor and has filed a copy of that notice with the court in which the application for approval of the transfer was filed.~~ 320
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~~(F) The~~ (C) Neither the annuity issuer nor the structured settlement obligor may be required to divide any periodic payment between the payee and any transferee or assignee or between two or more transferees or assignees. 325
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(D) Any further transfer of structured settlement payment rights by the payee may be made only if the transfer complies with all of the requirements of sections 2323.58 to 2323.585 of the Revised Code and does not contravene any applicable law. 329
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Sec. 2323.584. (A) A ~~person~~ transferee shall file an application under sections 2323.58 to 2323.585 of the Revised Code for the approval in advance of a transfer of structured settlement payment rights in the probate division of the court of common pleas of the county in which the payee resides, except 333
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that if the structured settlement agreement was approved by a 338
court of common pleas or other Ohio state court, the application 339
shall be filed in the Ohio state court that approved the 340
structured settlement agreement. ~~If the structured settlement-~~ 341
~~agreement was not approved by an Ohio court, a person shall file-~~ 342
~~an application under sections 2323.58 to 2323.585 of the Revised-~~ 343
~~Code for the approval in advance of a transfer of structured-~~ 344
~~settlement payment rights in the probate division of the court-~~ 345
~~of common pleas of the county in which the payee, the structured-~~ 346
~~settlement obligor, or the annuity issuer resides.~~ 347

(B) The following procedures shall apply to an application 348
for the approval in advance by a court of a transfer of 349
structured settlement payment rights under division (A) of this 350
section: 351

(1) ~~Upon the filing of the application, the~~ The court 352
~~shall set a date and time for hold a timely hearing on the~~ 353
~~application and shall notify the transferee of the date, time,~~ 354
~~and place of the hearing.~~ The payee shall appear in person at 355
the hearing unless the court determines that good cause exists 356
to excuse the payee from appearing in person. 357

(2) Not less than twenty days prior to the date set by the 358
court for the hearing on an application filed pursuant to this 359
section, the transferee shall file with the court and shall 360
~~serve on the court or any responsible administrative authority-~~ 361
~~that previously approved the structured settlement, on all~~ 362
~~interested parties, and on the annuity issuer and the structured-~~ 363
~~settlement obligor~~ including a parent or other guardian or 364
authorized legal representative of any interested party who is 365
not legally competent, in the manner prescribed in the Rules of 366
Civil Procedure for the service of process, a notice of the 367

proposed transfer and the application for its approval in 368
advance. The notice shall include all of the following: 369

(a) A copy of the application; 370

(b) A copy of the transfer agreement; 371

(c) A copy of the disclosure statement provided by the 372
transferee pursuant to section 2323.582 of the Revised Code ~~and~~ 373
~~signed by the payee pursuant to division (A) of section 2323.583~~ 374
~~of the Revised Code;~~ 375

(d) The payee's name, age, and county of residence and the 376
number and ages of each of the payee's dependents; 377

(e) A summary of both of the following: 378

(i) Any prior transfers by the payee to the transferee or 379
an affiliate, or through the transferee or an affiliate to an 380
assignee, within the four years preceding the date of the 381
transfer agreement and any proposed transfers by the payee to 382
the transferee or an affiliate, or through the transferee or an 383
affiliate to an assignee, applications for approval of which 384
were denied within the two years preceding the date of the 385
transfer agreement; 386

(ii) Any prior transfers by the payee to any person or 387
entity other than the transferee or an affiliate, or an assignee 388
of the transferee or an affiliate, within the three years 389
preceding the date of the transfer agreement and any prior 390
proposed transfers by the payee to any person or entity other 391
than the transferee or an affiliate, or an assignee of a 392
transferee or affiliate, applications for approval of which were 393
denied within the one year preceding the date of the current 394
transfer agreement, to the extent that the transfers or proposed 395
transfers have been disclosed to the transferee by the payee in 396

writing or otherwise are actually known to the transferee. 397

(f) Notification of the date, time, and place of the 398
hearing on the application; 399

~~(e)~~(g) Notification that any interested party may 400
support, oppose, or otherwise respond to the application, either 401
in person or by counsel, by submitting to the court a written 402
response containing the interested party's support of, 403
opposition to, or comments on the application or by 404
participating in the hearing; 405

~~(f)~~(h) Notification of the manner of filing a written 406
response to the application and the time within which the 407
response is required to be filed, which time shall be not less 408
than fifteen days after the service of the transferee's notice, 409
in order for the court to consider it. 410

~~(3) Within fifteen days after receipt of the notice~~ 411
~~described in division (B) (2) of this section, any interested~~ 412
~~party who wishes to respond to the application shall file a~~ 413
~~written response with the court personally or by certified mail,~~ 414
~~return receipt requested.~~ 415

~~(4) At the conclusion of the hearing on an application~~ 416
~~under this section, the court may grant or deny the approval of~~ 417
~~the transfer. The court shall enter its order accordingly. If~~ 418
~~the court grants the approval of the transfer, it shall include~~ 419
~~in its order all of the express findings specified in section~~ 420
~~2323.583 of the Revised Code. If the court denies the approval~~ 421
~~of the transfer, it shall include in its order the reasons for~~ 422
~~the denial.~~ 423

~~(5) An order of the court made under division (B) (4) of~~ 424
~~this section is a final and appealable order.~~ 425

Sec. 2323.585. (A) No payee who proposes to make a 426
transfer of structured settlement payment rights shall incur any 427
penalty, forfeit any application fee or other payment, or 428
otherwise incur any liability to the proposed transferee or any 429
assignee based on a failure of the transfer to comply with any 430
of the requirements of sections 2323.581 to 2323.584 of the 431
Revised Code. 432

(B) No provision of this section or section 2323.581, 433
2323.582, 2323.583, or 2323.584 of the Revised Code may be 434
waived by any payee. 435

(C) No provision of this section or section 2323.581, 436
2323.582, 2323.583, or 2323.584 of the Revised Code authorizes 437
any transfer of structured settlement payment rights in 438
contravention of applicable law or ~~gives effect to~~ implies that 439
~~any transfer of structured settlement payment rights that is~~ 440
~~void under any applicable law~~ under a transfer agreement that 441
was entered into prior to the effective date of this amendment 442
is valid or invalid. 443

(D) Any transfer agreement entered into on or after the 444
effective date of this amendment by a payee who resides in this 445
state shall provide that disputes under the transfer agreement, 446
including any claim that the payee has breached the agreement, 447
are to be determined in and under the laws of this state. No 448
such transfer agreement shall authorize the transferee or any 449
other party to confess judgment or consent to entry of judgment 450
against the payee. 451

(E) No transfer of structured settlement payment rights 452
shall extend to any payments that are life-contingent unless, 453
prior to the date on which the payee signs the transfer 454
agreement, the transferee has established and has agreed to 455

maintain procedures reasonably satisfactory to the annuity 456
issuer and the structured settlement obligor for both of the 457
following: 458

(1) Periodically confirming the payee's survival; 459

(2) Giving the annuity issuer and the structured 460
settlement obligor prompt written notice in the event of the 461
payee's death. 462

(F) If the payee cancels a transfer agreement, or if the 463
transfer agreement otherwise terminates, after an application 464
for approval of a transfer of structured settlement payment 465
rights has been filed and before it has been granted or denied, 466
the transferee shall promptly request dismissal of the 467
application. 468

Sec. 2323.586. ~~The~~ Compliance with section 2323.582 of the 469
Revised Code and the fulfillment of the conditions set forth in 470
section 2323.581 of the Revised Code shall be solely the 471
responsibility of the transferee in any transfer of structured 472
settlement payment rights, and neither the structured settlement 473
obligor and nor the annuity issuer under a transfer or transfer- 474
agreement are immune from shall bear any responsibility for, or 475
any liability based upon any claim by the payee, or any party, 476
other than a transferee, claiming through the payee, as to any 477
structured settlement payment rights or periodic payments that 478
are the subject of the transfer or transfer agreement arising 479
from, noncompliance with the requirements or failure to fulfill 480
the conditions. 481

Sec. 2323.587. A violation of or failure to comply with 482
section 2323.581, 2323.582, 2323.583, 2323.584, 2323.585, or 483
2323.586 of the Revised Code is an unfair or deceptive act or 484

practice in violation of section 1345.02 of the Revised Code. 485

Sec. 4705.09. (A) (1) (a) Any person admitted to the 486
practice of law in this state by order of the supreme court in 487
accordance with its prescribed and published rules, or any law 488
firm or legal professional association, may establish and 489
maintain an interest-bearing trust account, for purposes of 490
depositing client funds held by the attorney, firm, or 491
association that are nominal in amount or are to be held by the 492
attorney, firm, or association for a short period of time, with 493
any bank, savings bank, or savings and loan association that is 494
authorized to do business in this state and is insured by the 495
federal deposit insurance corporation or the successor to that 496
corporation, or any credit union insured by the national credit 497
union administration operating under the "Federal Credit Union 498
Act," 84 Stat. 994 (1970), 12 U.S.C.A. 1751, or insured by a 499
credit union share guaranty corporation established under 500
Chapter 1761. of the Revised Code. Each account established 501
under this division shall be in the name of the attorney, firm, 502
or association that established and is maintaining it and shall 503
be identified as an IOLTA or an interest on lawyer's trust 504
account. The name of the account may contain additional 505
identifying features to distinguish it from other trust accounts 506
established and maintained by the attorney, firm, or 507
association. 508

(b) Any person admitted to the practice of law in this 509
state by order of the supreme court in accordance with its 510
prescribed and published rules, or any law firm or legal 511
professional association, may establish and maintain an 512
interest-bearing trust account, for purposes of depositing funds 513
received by a client, in the client's name as fiduciary of a 514
trust or estate, with any bank, savings bank, or savings and 515

loan association that is authorized to do business in this state 516
and is insured by the federal deposit insurance corporation or 517
the successor to that corporation, or any credit union insured 518
by the national credit union administration operating under the 519
"Federal Credit Union Act," 84 Stat. 994 (1970), 12 U.S.C.A. 520
1751, or insured by a credit union share guaranty corporation 521
established under Chapter 1761. of the Revised Code. Each 522
account established under this division shall be in the name of 523
the attorney, firm, or association that established and is 524
maintaining it and shall be identified as an IOLTA or an 525
interest on lawyer's trust account. The name of the account 526
shall contain additional identifying features to distinguish it 527
from other trust accounts established and maintained by the 528
attorney, firm, or association and to distinguish it from an 529
IOLTA established and maintained under division (A) (1) (a) of 530
this section. 531

No funds received by a client, in the client's name as 532
fiduciary of a trust or estate, shall be deposited into an IOLTA 533
established under division (A) (1) (b) of this section unless the 534
deposit has been approved by the probate court under section 535
2109.41 of the Revised Code. 536

Notwithstanding any contrary provision in Chapter 2109. of 537
the Revised Code, a probate court examining a trust or estate 538
may only access the account information of an IOLTA created 539
under this section for purposes of obtaining information related 540
to that particular trust or estate and shall not access records 541
of the IOLTA that pertain to assets of any other estate or trust 542
held in the IOLTA. 543

(2) Each attorney who receives funds belonging to a client 544
shall do one of the following: 545

(a) Establish and maintain one or more interest-bearing 546
trust accounts in accordance with division (A)(1) of this 547
section or maintain one or more interest-bearing trust accounts 548
previously established in accordance with that division, and 549
deposit all client funds held that are nominal in amount or are 550
to be held by the attorney for a short period of time in the 551
account or accounts; 552

(b) If the attorney is affiliated with a law firm or legal 553
professional association, comply with division (A)(2)(a) of this 554
section or deposit all client funds held that are nominal in 555
amount or are to be held by the attorney for a short period of 556
time in one or more interest-bearing trust accounts established 557
and maintained by the firm or association in accordance with 558
division (A)(1) of this section. 559

(3) No funds belonging to any attorney, firm, or legal 560
professional association shall be deposited in any interest- 561
bearing trust account established under division (A)(1) or (2) 562
of this section, except that funds sufficient to pay or enable a 563
waiver of depository institution service charges on the account 564
shall be deposited in the account and other funds belonging to 565
the attorney, firm, or association may be deposited as 566
authorized by the Code of Professional Responsibility adopted by 567
the supreme court. The determinations of whether funds held are 568
nominal or more than nominal in amount and of whether funds are 569
to be held for a short period or longer than a short period of 570
time rests in the sound judgment of the particular attorney. No 571
imputation of professional misconduct shall arise from the 572
attorney's exercise of judgment in these matters. 573

(B) All interest earned on funds deposited in an interest- 574
bearing trust account established under division (A)(1) or (2) 575

of this section shall be transmitted to the treasurer of state 576
for deposit in the legal aid fund established under section 577
120.52 of the Revised Code. No part of the interest earned on 578
funds deposited in an interest-bearing trust account established 579
under division (A) (1) or (2) of this section shall be paid to, 580
or inure to the benefit of, the attorney, the attorney's law 581
firm or legal professional association, the client or other 582
person who owns or has a beneficial ownership of the funds 583
deposited, or any other person other than in accordance with 584
this section, section 4705.10, and sections 120.51 to 120.55 of 585
the Revised Code. 586

(C) No liability arising out of any act or omission by any 587
attorney, law firm, or legal professional association with 588
respect to any interest-bearing trust account established under 589
division (A) (1) or (2) of this section shall be imputed to the 590
depository institution. 591

(D) The supreme court may adopt and enforce rules of 592
professional conduct that pertain to the use, by attorneys, law 593
firms, or legal professional associations, of interest-bearing 594
trust accounts established under division (A) (1) or (2) of this 595
section, and that pertain to the enforcement of division (A) (2) 596
of this section. Any rules adopted by the supreme court under 597
this authority shall conform to the provisions of this section, 598
section 4705.10, and sections 120.51 to 120.55 of the Revised 599
Code. 600

Section 2. That existing sections 2109.41, 2323.58, 601
2323.581, 2323.582, 2323.583, 2323.584, 2323.585, 2323.586, 602
2323.587, and 4705.09 of the Revised Code are hereby repealed. 603

Section 3. Sections 2323.58, 2323.581, 2323.582, 2323.583, 604
2323.584, 2323.585, 2323.586, and 2323.587 of the Revised Code, 605

as amended by this act, shall apply to a transfer of structured	606
settlement payment rights under any transfer agreement entered	607
into on or after the effective date of this act.	608