

113TH CONGRESS
2D SESSION

H. R. 3897

To amend the Internal Revenue Code of 1986 to strengthen the rules for approved structured settlement factoring transactions.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 16, 2014

Mr. CARTWRIGHT (for himself, Mr. GRIJALVA, Mr. HIGGINS, Mr. HONDA, Mr. LEWIS, Ms. LEE of California, and Ms. SCHAKOWSKY) introduced the following bill; which was referred to the Committee on Ways and Means

A BILL

To amend the Internal Revenue Code of 1986 to strengthen the rules for approved structured settlement factoring transactions.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. MODIFICATION OF QUALIFIED ORDER RE-**
4 **QUIREMENTS FOR APPROVED TRANS-**
5 **ACTIONS.**

6 (a) IN GENERAL.—Subparagraph (A) of section
7 5891(b)(2) of the Internal Revenue Code of 1986 is
8 amended by striking “and” at the end of clause (i) and
9 by adding at the end the following new clause:

1 “(iii) satisfies the requirements of
2 paragraph (5), and”.

3 (b) TRANSACTION REQUIREMENTS.—Subsection (b)
4 of section 5891 of such Code is amended by redesignating
5 paragraph (5) as paragraph (6) and by inserting after
6 paragraph (4) the following new paragraph:

7 “(5) TRANSACTION REQUIREMENTS.—

8 “(A) IN GENERAL.—A transfer of struc-
9 tured settlement payment rights shall be treat-
10 ed as satisfying the requirements of this para-
11 graph only if the transfer meets the following
12 requirements:

13 “(i) The annual discount rate of the
14 consideration for the transfer, determined
15 by taking into account charges, fees, and
16 other expenses, does not exceed the prime
17 rate plus 5 percentage points.

18 “(ii) The aggregate amount of
19 charges, fees, and other expenses payable
20 by the payee do not exceed 2 percent of
21 the value of the consideration to the payee
22 (net of such charges, fees, and other ex-
23 penses).

24 “(iii) The payee is not liable for any
25 penalty, and will not forfeit any amounts

1 already paid or incurred, if the transfer
2 does not satisfy the requirements of this
3 paragraph.

4 “(iv) The transferee has given written
5 notice of the transferee’s name, address,
6 and taxpayer identification number to the
7 annuity issuer and the structured settle-
8 ment obligor and has filed a copy of such
9 notice with the State court or responsible
10 administrative authority issuing the quali-
11 fied order.

12 “(v) The transfer is fair and reason-
13 able.

14 “(vi) Not later than 5 days, and not
15 earlier than 15 days, before the date on
16 which the payee first incurs any obligations
17 with respect to the transfer, the transferee
18 provides to the payee a disclosure state-
19 ment which sets forth in a clear and con-
20 spicuous manner the following:

21 “(I) The remaining amounts pay-
22 able and payment dates under the
23 structured settlement.

24 “(II) The aggregate of such
25 amounts.

1 “(III) The discounted present
2 value of the structured settlement
3 payment rights determined by using a
4 discount rate equal to the applicable
5 Federal rate, compounded annually.

6 “(IV) A statement of the total
7 consideration made in exchange for
8 the structured settlement payment
9 rights.

10 “(V) An itemized list of all
11 charges, fees, and other expenses pay-
12 able by the payee, or deductible from
13 the gross amount otherwise payable to
14 the payee, with respect to the trans-
15 fer.

16 “(VI) The value of consideration
17 to the payee net of the charges, fees,
18 and other expenses described in sub-
19 clause (V).

20 “(VII) The quotient (expressed
21 as a percentage) of the amount of net
22 consideration described in subclause
23 (VI) divided by the discounted present
24 value of the structured settlement

1 payment rights determined under sub-
2 clause (III).

3 “(VIII) The annual discount rate
4 of the consideration for the transfer
5 determined by taking into account
6 charges, fees, and other expenses.

7 “(IX) The amount of any pen-
8 alties (including any liquidated dam-
9 ages) payable by the payee in the case
10 of any breach of the transfer agree-
11 ment by the payee.

12 “(B) PRIME RATE.—For purposes of this
13 paragraph, the term ‘prime rate’ means the
14 bank prime rate for the first day of the month
15 in which the transfer agreement is executed, as
16 published in the Federal Reserve Statistical Re-
17 lease on selected interest rates (daily or week-
18 ly), and commonly referred to as the H.15 re-
19 lease (or any successor publication).”.

20 (c) EFFECTIVE DATE.—The amendments made by
21 this section shall apply to structured settlement factoring
22 transactions (as defined in section 5891 of such Code) en-
23 tered into later than 180 days after the date of the enact-
24 ment of this Act.

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