

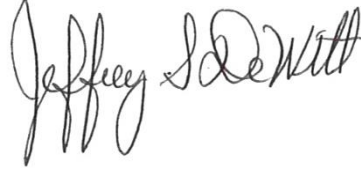
Government of the District of Columbia
Office of the Chief Financial Officer



Jeffrey S. DeWitt
Chief Financial Officer

MEMORANDUM

TO: The Honorable Phil Mendelson
Chairman, Council of the District of Columbia

FROM: Jeffrey S. DeWitt
Chief Financial Officer 

DATE: October 19, 2018

SUBJECT: Fiscal Impact Statement – Consumer Disclosure Act of 2018

REFERENCE: Bill 22-20, Draft Committee Print as shared with the Office of Revenue Analysis on October 16, 2018

Conclusion

Funds are not sufficient in the fiscal year 2019 through fiscal year 2022 budget and financial plan to implement the bill. The bill will cost of \$83,000 in fiscal year 2019 and \$342,000 over the four-year budget and financial plan.

Background

Structured settlements are periodic payments of damages for personal injury or sickness established by a settlement or judgment in resolution of a tort claim and may be structured to assist the victims (“payee”) and their families with anticipated needs. Nevertheless, payees may seek to transfer their rights to receive periodic payments (or portions of their payments) in exchange for a lump sum.

Title I of the bill, the proposed Structured Settlement Protections Act of 2018, requires proposed transfers of structured payment settlement rights to be approved by the Superior Court of the District of Columbia (Superior Court) or the court that approved the structured settlement agreement. The bill establishes procedures for approving such transfers and enumerates disclosures which must be made by the transferee to the payee.

Before approving a proposed transfer, the court must hold a hearing at which the payee shall appear (unless good cause exists to excuse the payee). The bill sets out requirements for the transferee to include with its application for approval of the transfer. The bill requires the court to

approve a proposed transfer based on findings that the transfer is in the best interest of the payee and that the transfer satisfies the bill's requirements¹.

The bill also requires the seller of a transfer agreement to provide certain disclosures to a payee ten days prior to the date the payee signs the agreement. The disclosure statement must contain:

- The amounts and due dates of the structured settlement payments to be transferred;
- The aggregate amount of such payments;
- The discounted present value of the payments to be transferred and the interest rate used in calculating the discounted present value;
- The gross advance amount;
- An itemized listing of all applicable transfer expenses that will payable, and the estimated amount of such fees;
- The net advance amount;
- The effective annual interest rate and a notification that the payee will be paying interest to the structured settlement purchaser at such rate;
- The amount of any penalties or damages payable in the event of breach of the transfer agreement by the payee;
- Notification of the payee's right to cancel the transfer agreement at any time prior to entry of a final court order approving such transfer;
- Notification that the purchase price is negotiable and that the payee has the right to request competing quotes from other potential transferees; and
- Notification that the payee has the right to, and should, seek and receive independent professional advice regarding the proposed transfer.

Title II of the bill, the proposed Automatic Renewal Protections Act of 2018, requires consumer contracts that automatically renew to include certain disclosures. An individual or company that sells a product or service to a consumer containing automatic renewal provisions must disclose such provisions clearly and conspicuously. If the term of the contract is for twelve months or more, the affirmative consent of the consumer must be obtained before the contract can be renewed.

For contracts of twelve months or more that automatically renew for a term of one month or more, the company or individual must notify consumers of the renewal by first-class mail and by email, and between 15 and 30 days of the cancellation deadline. Automatic renewals of free trials with a value of \$100 or more require the affirmative opt-in of the consumer.

The bill does not apply to contracts regulated by the Department of Insurance, Securities and Banking; contracts with banks and similar financial institutions; or contracts for services regulated by the Public Service Commission, the Federal Communications Commission, or the Federal Energy Regulatory Commission.

¹ The bill does not apply to the transfers of workers' compensations claims, awards, benefits, settlements, or payments.

Financial Plan Impact

Funds are not sufficient in the fiscal year 2019 through fiscal year 2022 budget and financial plan to implement the bill. The bill will cost \$83,000 in fiscal year 2019 and \$342,000 over the four-year budget and financial plan. All of the costs stem from the bill's Title II.

Currently, Superior Court may approve transfers of structured settlements but would apply the law of another state (such as the state where the company making the periodic payments is domiciled), or transfers of structured settlements awarded to District residents may be approved in the court of another state. Because Superior Court is funded by the federal government, there is no fiscal impact to the District for any additional hearings and approvals that may be required under Title I of the bill.

Title II of the bill requires additional resources for the Department of Consumer and Regulatory Affairs (DCRA). DCRA maintains an Office of Consumer Protection with the authority to educate businesses and consumers on consumer protection laws and receive and investigate consumer complaints². Although the Office currently receives consumer complaints about automatically renewing contracts, there is no existing law to prohibit such renewals and therefore the Office does not investigate them. DCRA will require one additional investigator for the Office.

Cost of Bill 22-20, the Consumer Disclosure Act of 2018, FY 2019 - FY 2022					
	FY 2019	FY 2020	FY 2021	FY 2022	Four-Year Total
DCRA Investigator ^(a)	\$83,000	\$85,000	\$86,000	\$88,000	\$342,000

Table Notes

(a) Based on Grade 12

² District of Columbia Consumer Protection Procedures Act, effective July 22, 1976 (D.C. Law 1-76; D.C. Official Code § 28-3901 et seq.)