

**Second Regular Session  
Sixty-fourth General Assembly  
STATE OF COLORADO**

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 04-0712.01 Jerry Barry

**SENATE BILL 04-098**

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**SENATE SPONSORSHIP**

**Hanna,**

**HOUSE SPONSORSHIP**

**Stengel,**

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**Senate Committees**

Business Affairs & Labor

**House Committees**

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**A BILL FOR AN ACT**

101     **CONCERNING THE ESTABLISHMENT OF A "STRUCTURED SETTLEMENT**  
102     **PROTECTION ACT".**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)*

For the transfer of rights under a structured settlement agreement:  
Specifies required disclosures to the payee;  
Requires approval of the transfer by a court or responsible administrative authority;  
Specifies effects of the transfer on interested parties; and  
Establishes a procedure for approval of the transfer.

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Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.*

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** Title 13, Colorado Revised Statutes, is amended  
3 BY THE ADDITION OF A NEW ARTICLE to read:

4 **ARTICLE 23**

5 **Structured Settlement Protection Act**

6 **13-23-101. Short title.** THIS ARTICLE SHALL BE KNOWN AND MAY  
7 BE CITED AS THE "STRUCTURED SETTLEMENT PROTECTION ACT".

8 **13-23-102. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE  
9 CONTEXT OTHERWISE REQUIRES:

10 (1) "ANNUITY ISSUER" MEANS AN INSURER THAT HAS ISSUED A  
11 CONTRACT TO FUND PERIODIC PAYMENTS UNDER A STRUCTURED  
12 SETTLEMENT.

13 (2) "DEPENDENT" MEANS A PAYEE'S SPOUSE, MINOR CHILD, OR ANY  
14 PERSON FOR WHOM THE PAYEE IS LEGALLY OBLIGATED TO PROVIDE  
15 SUPPORT, INCLUDING MAINTENANCE.

16 (3) "DISCOUNTED PRESENT VALUE" MEANS THE PRESENT VALUE OF  
17 FUTURE PAYMENTS DETERMINED BY DISCOUNTING SUCH PAYMENTS TO THE  
18 PRESENT USING THE MOST RECENTLY PUBLISHED APPLICABLE FEDERAL  
19 RATE FOR DETERMINING THE PRESENT VALUE OF AN ANNUITY, AS ISSUED  
20 BY THE UNITED STATES INTERNAL REVENUE SERVICE.

21 (4) "GROSS ADVANCE AMOUNT" MEANS THE SUM PAYABLE TO THE  
22 PAYEE OR FOR THE PAYEE'S ACCOUNT AS CONSIDERATION FOR A TRANSFER  
23 OF STRUCTURED SETTLEMENT PAYMENT RIGHTS BEFORE ANY REDUCTIONS  
24 FOR TRANSFER EXPENSES OR OTHER DEDUCTIONS ARE MADE FROM SUCH  
25 CONSIDERATION.

26 (5) "INDEPENDENT PROFESSIONAL ADVICE" MEANS ADVICE OF AN  
27 ATTORNEY, CERTIFIED PUBLIC ACCOUNTANT, ACTUARY, OR OTHER

1 LICENSED PROFESSIONAL ADVISER.

2 (6) "INTERESTED PARTIES" MEANS THE PAYEE, ANY BENEFICIARY  
3 IRREVOCABLY DESIGNATED UNDER THE ANNUITY CONTRACT TO RECEIVE  
4 PAYMENTS FOLLOWING THE PAYEE'S DEATH, THE ANNUITY ISSUER, THE  
5 STRUCTURED SETTLEMENT OBLIGOR, AND ANY OTHER PARTY WHO HAS  
6 CONTINUING RIGHTS OR OBLIGATIONS UNDER SUCH STRUCTURED  
7 SETTLEMENT.

8 (7) "NET ADVANCE AMOUNT" MEANS THE GROSS ADVANCE  
9 AMOUNT LESS THE AGGREGATE AMOUNT OF THE ACTUAL AND ESTIMATED  
10 TRANSFER EXPENSES REQUIRED TO BE DISCLOSED UNDER SECTION  
11 13-23-103.

12 (8) "PAYEE" MEANS AN INDIVIDUAL WHO IS RECEIVING TAX-FREE  
13 PAYMENTS UNDER A STRUCTURED SETTLEMENT AND WHO PROPOSES TO  
14 MAKE A TRANSFER OF PAYMENT RIGHTS THEREUNDER.

15 (9) "PERIODIC PAYMENT" MEANS A RECURRING PAYMENT OR A  
16 SCHEDULED FUTURE LUMP SUM PAYMENT.

17 (10) "QUALIFIED ASSIGNMENT AGREEMENT" MEANS AN  
18 AGREEMENT PROVIDING FOR A QUALIFIED ASSIGNMENT WITHIN THE  
19 MEANING OF SECTION 130 OF THE FEDERAL "INTERNAL REVENUE CODE OF  
20 1986", AS AMENDED.

21 (11) "RESPONSIBLE ADMINISTRATIVE AUTHORITY" MEANS ANY  
22 GOVERNMENT AUTHORITY VESTED BY LAW WITH EXCLUSIVE JURISDICTION  
23 OVER THE SETTLED CLAIM RESOLVED BY SUCH STRUCTURED SETTLEMENT.

24 (12) "SETTLED CLAIM" MEANS THE ORIGINAL TORT CLAIM OR  
25 WORKERS' COMPENSATION CLAIM RESOLVED BY A STRUCTURED  
26 SETTLEMENT.

27 (13) "STRUCTURED SETTLEMENT" MEANS AN ARRANGEMENT FOR

1 PERIODIC PAYMENT OF DAMAGES FOR PERSONAL INJURIES OR SICKNESS  
2 ESTABLISHED BY SETTLEMENT OR JUDGMENT IN RESOLUTION OF A TORT  
3 CLAIM OR FOR PERIODIC PAYMENTS IN SETTLEMENT OF A WORKERS'  
4 COMPENSATION CLAIM.

5 (14) "STRUCTURED SETTLEMENT AGREEMENT" MEANS THE  
6 AGREEMENT, JUDGMENT, STIPULATION, OR RELEASE EMBODYING THE  
7 TERMS OF A STRUCTURED SETTLEMENT.

8 (15) "STRUCTURED SETTLEMENT OBLIGOR" MEANS THE PARTY WHO  
9 HAS THE CONTINUING OBLIGATION TO MAKE PERIODIC PAYMENTS TO THE  
10 PAYEE UNDER A STRUCTURED SETTLEMENT AGREEMENT OR A QUALIFIED  
11 ASSIGNMENT AGREEMENT.

12 (16) "STRUCTURED SETTLEMENT PAYMENT RIGHT" MEANS THE  
13 RIGHT TO RECEIVE PERIODIC PAYMENTS UNDER A STRUCTURED  
14 SETTLEMENT, WHETHER FROM THE STRUCTURED SETTLEMENT OBLIGOR OR  
15 THE ANNUITY ISSUER, WHERE:

16 (a) THE PAYEE IS DOMICILED IN COLORADO, OR THE DOMICILE OR  
17 PRINCIPAL PLACE OF BUSINESS OF THE STRUCTURED SETTLEMENT OBLIGOR  
18 OR THE ANNUITY ISSUER IS COLORADO; OR

19 (b) THE STRUCTURED SETTLEMENT AGREEMENT WAS APPROVED BY  
20 A COURT OR RESPONSIBLE ADMINISTRATIVE AUTHORITY IN COLORADO; OR

21 (c) THE STRUCTURED SETTLEMENT AGREEMENT IS EXPRESSLY  
22 GOVERNED BY THE LAWS OF COLORADO.

23 (17) "TERMS OF THE STRUCTURED SETTLEMENT" MEANS THE  
24 TERMS OF THE STRUCTURED SETTLEMENT AGREEMENT, THE ANNUITY  
25 CONTRACT, A QUALIFIED ASSIGNMENT AGREEMENT, AND ANY ORDER OR  
26 OTHER APPROVAL OF A COURT OR RESPONSIBLE ADMINISTRATIVE  
27 AUTHORITY OR OTHER GOVERNMENT AUTHORITY THAT AUTHORIZED OR

1 APPROVED SUCH STRUCTURED SETTLEMENT.

2 (18) "TRANSFER" MEANS A SALE, ASSIGNMENT, PLEDGE,  
3 HYPOTHECATION, OR OTHER ALIENATION OR ENCUMBRANCE OF A  
4 STRUCTURED SETTLEMENT PAYMENT RIGHT MADE BY A PAYEE FOR  
5 CONSIDERATION; EXCEPT THAT THE TERM "TRANSFER" DOES NOT INCLUDE  
6 THE CREATION OR PERFECTION OF A SECURITY INTEREST IN A STRUCTURED  
7 SETTLEMENT PAYMENT RIGHT UNDER A BLANKET SECURITY AGREEMENT  
8 ENTERED INTO WITH AN INSURED DEPOSITORY INSTITUTION, IN THE  
9 ABSENCE OF ANY ACTION TO REDIRECT THE STRUCTURED SETTLEMENT  
10 PAYMENTS TO SUCH INSURED DEPOSITORY INSTITUTION, OR AN AGENT OR  
11 SUCCESSOR IN INTEREST THEREOF, OR OTHERWISE TO ENFORCE SUCH  
12 BLANKET SECURITY INTEREST AGAINST THE STRUCTURED SETTLEMENT  
13 PAYMENT RIGHTS.

14 (19) "TRANSFER AGREEMENT" MEANS THE AGREEMENT PROVIDING  
15 FOR A TRANSFER OF A STRUCTURED SETTLEMENT PAYMENT RIGHT.

16 (20) "TRANSFeree" MEANS A PARTY ACQUIRING OR PROPOSING TO  
17 ACQUIRE A STRUCTURED SETTLEMENT PAYMENT RIGHT THROUGH A  
18 TRANSFER.

19 (21) "TRANSFER EXPENSES" MEANS ALL EXPENSES OF A TRANSFER  
20 THAT ARE REQUIRED UNDER THE TRANSFER AGREEMENT TO BE PAID BY THE  
21 PAYEE OR DEDUCTED FROM THE GROSS ADVANCE AMOUNT, INCLUDING,  
22 WITHOUT LIMITATION, COURT FILING FEES, ATTORNEY FEES, ESCROW FEES,  
23 LIEN RECORDATION FEES, JUDGMENT AND LIEN SEARCH FEES, FINDERS'  
24 FEES, COMMISSIONS, AND OTHER PAYMENTS TO A BROKER OR OTHER  
25 INTERMEDIARY. "TRANSFER EXPENSES" DOES NOT INCLUDE PREEXISTING  
26 OBLIGATIONS OF THE PAYEE PAYABLE FOR THE PAYEE'S ACCOUNT FROM  
27 THE PROCEEDS OF A TRANSFER.

1           **13-23-103. Required disclosures to payee.** (1) NOT FEWER  
2 THAN THREE DAYS PRIOR TO THE DATE ON WHICH A PAYEE SIGNS A  
3 TRANSFER AGREEMENT, THE TRANSFEREE SHALL PROVIDE TO THE PAYEE  
4 A SEPARATE DISCLOSURE STATEMENT, IN BOLD TYPE NO SMALLER THAN  
5 FOURTEEN POINTS, SETTING FORTH:

6           (a) THE AMOUNTS AND DUE DATES OF THE STRUCTURED  
7 SETTLEMENT PAYMENTS TO BE TRANSFERRED;

8           (b) THE AGGREGATE AMOUNT OF SUCH PAYMENTS;

9           (c) THE DISCOUNTED PRESENT VALUE OF THE PAYMENTS TO BE  
10 TRANSFERRED, WHICH SHALL BE IDENTIFIED AS THE "CALCULATION OF  
11 CURRENT VALUE OF THE TRANSFERRED STRUCTURED SETTLEMENT  
12 PAYMENTS UNDER FEDERAL STANDARDS FOR VALUING ANNUITIES", AND  
13 THE AMOUNT OF THE APPLICABLE FEDERAL RATE USED IN CALCULATING  
14 SUCH DISCOUNTED PRESENT VALUE;

15           (d) THE GROSS ADVANCE AMOUNT;

16           (e) AN ITEMIZED LISTING OF ALL APPLICABLE TRANSFER EXPENSES,  
17 OTHER THAN ATTORNEY FEES AND RELATED DISBURSEMENTS, PAYABLE IN  
18 CONNECTION WITH THE TRANSFEREE'S APPLICATION FOR APPROVAL OF THE  
19 TRANSFER, AND THE TRANSFEREE'S BEST ESTIMATE OF THE AMOUNT OF  
20 ANY ATTORNEY FEES AND RELATED DISBURSEMENTS;

21           (f) THE NET ADVANCE AMOUNT;

22           (g) THE AMOUNT OF ANY PENALTIES OR LIQUIDATED DAMAGES  
23 PAYABLE BY THE PAYEE IN THE EVENT OF A BREACH OF THE TRANSFER  
24 AGREEMENT BY THE PAYEE; AND

25           (h) A STATEMENT THAT THE PAYEE HAS THE RIGHT TO CANCEL THE  
26 TRANSFER AGREEMENT, WITHOUT PENALTY OR FURTHER OBLIGATION, NOT  
27 LATER THAN THE THIRD BUSINESS DAY AFTER THE DATE THE AGREEMENT

1 IS SIGNED BY THE PAYEE.

2 **13-23-104. Hearing on transfers of structured settlement**  
3 **payment rights.** = A DIRECT OR INDIRECT TRANSFER OF A STRUCTURED  
4 SETTLEMENT PAYMENT RIGHT SHALL NOT BE EFFECTIVE AND A  
5 STRUCTURED SETTLEMENT OBLIGOR OR ANNUITY ISSUER SHALL NOT BE  
6 REQUIRED TO MAKE A PAYMENT DIRECTLY OR INDIRECTLY TO A  
7 TRANSFEREE OF A STRUCTURED SETTLEMENT PAYMENT RIGHT UNLESS A  
8 HEARING ON THE TRANSFER HAS BEEN CONDUCTED PURSUANT TO SECTION  
9 13-23-106 BY A COURT OR RESPONSIBLE ADMINISTRATIVE AUTHORITY.

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11 **13-23-105. Effect of transfer of structured settlement payment**  
12 **right.** (1) FOLLOWING A TRANSFER OF A STRUCTURED SETTLEMENT  
13 PAYMENT RIGHT PURSUANT TO THIS ARTICLE:

14 (a) THE STRUCTURED SETTLEMENT OBLIGOR AND THE ANNUITY  
15 ISSUER SHALL, AS TO ALL PARTIES EXCEPT THE TRANSFEREE, BE  
16 DISCHARGED AND RELEASED FROM ALL LIABILITY FOR THE TRANSFERRED  
17 PAYMENTS;

18 (b) THE TRANSFEREE SHALL BE LIABLE TO THE STRUCTURED  
19 SETTLEMENT OBLIGOR AND THE ANNUITY ISSUER:

20 (I) IF THE TRANSFER CONTRAVENES THE TERMS OF THE  
21 STRUCTURED SETTLEMENT, FOR ANY TAXES INCURRED BY SUCH PARTIES  
22 AS A CONSEQUENCE OF THE TRANSFER; AND

23 (II) FOR ANY OTHER LIABILITIES OR COSTS, INCLUDING  
24 REASONABLE COSTS AND ATTORNEY FEES, ARISING FROM COMPLIANCE BY  
25 SUCH PARTIES WITH THE ORDER OF THE COURT OR RESPONSIBLE  
26 ADMINISTRATIVE AUTHORITY OR ARISING AS A CONSEQUENCE OF THE  
27 TRANSFEREE'S FAILURE TO COMPLY WITH THE PROVISIONS OF THIS

1 ARTICLE;

2 (c) NEITHER THE ANNUITY ISSUER NOR THE STRUCTURED  
3 SETTLEMENT OBLIGOR MAY BE REQUIRED TO DIVIDE ANY PERIODIC  
4 PAYMENT BETWEEN THE PAYEE AND A TRANSFEREE OR ASSIGNEE OR  
5 BETWEEN TWO OR MORE TRANSFEREES OR ASSIGNEES; AND

6 (d) ANY FURTHER TRANSFER OF STRUCTURED SETTLEMENT  
7 PAYMENT RIGHTS BY THE PAYEE MAY BE MADE ONLY AFTER COMPLIANCE  
8 WITH ALL OF THE REQUIREMENTS OF THIS ARTICLE.

9 **13-23-106. Procedure for hearing on transfer.** (1) AN  
10 APPLICATION UNDER THIS ARTICLE FOR A HEARING ON A TRANSFER OF A  
11 STRUCTURED SETTLEMENT PAYMENT RIGHT SHALL BE MADE BY THE  
12 TRANSFEREE AND MAY BE BROUGHT:

13 (a) IN THE DISTRICT COURT FOR THE COUNTY IN WHICH THE PAYEE  
14 RESIDES;

15 (b) IN THE DISTRICT COURT FOR THE COUNTY IN WHICH THE  
16 STRUCTURED SETTLEMENT OBLIGOR OR THE ANNUITY ISSUER MAINTAINS  
17 ITS PRINCIPAL PLACE OF BUSINESS; OR

18 (c) IN ANY COURT OR BEFORE ANY RESPONSIBLE ADMINISTRATIVE  
19 AUTHORITY THAT APPROVED THE STRUCTURED SETTLEMENT AGREEMENT.

20 (2) NOT FEWER THAN TWENTY DAYS PRIOR TO THE SCHEDULED  
21 HEARING ON AN APPLICATION FOR A HEARING ON A TRANSFER OF  
22 STRUCTURED SETTLEMENT PAYMENT RIGHTS UNDER SECTION 13-23-104,  
23 THE TRANSFEREE SHALL FILE WITH THE COURT OR RESPONSIBLE  
24 ADMINISTRATIVE AUTHORITY AND SERVE ON ALL INTERESTED PARTIES A  
25 NOTICE OF THE PROPOSED TRANSFER AND THE APPLICATION FOR A  
26 HEARING. THE TRANSFEREE SHALL FILE AND SERVE:

27 (a) A COPY OF THE TRANSFEREE'S APPLICATION;

- 1 (b) A COPY OF THE TRANSFER AGREEMENT;
- 2 (c) A COPY OF THE DISCLOSURE STATEMENT REQUIRED PURSUANT  
3 TO SECTION 13-23-103;
- 4 (d) A LISTING OF EACH OF THE PAYEE'S DEPENDENTS, TOGETHER  
5 WITH EACH DEPENDENT'S AGE;
- 6 (e) A NOTIFICATION THAT ANY INTERESTED PARTY IS ENTITLED TO  
7 SUPPORT, OPPOSE, OR OTHERWISE RESPOND TO THE TRANSFEREE'S  
8 APPLICATION, EITHER IN PERSON OR BY COUNSEL, BY SUBMITTING WRITTEN  
9 COMMENTS TO THE COURT OR RESPONSIBLE ADMINISTRATIVE AUTHORITY  
10 OR BY PARTICIPATING IN THE HEARING; AND
- 11 (f) A NOTIFICATION OF THE TIME AND PLACE OF THE HEARING AND  
12 NOTIFICATION OF THE MANNER IN WHICH AND THE TIME BY WHICH  
13 WRITTEN RESPONSES TO THE APPLICATION MUST BE FILED, WHICH SHALL  
14 BE NOT FEWER THAN FIFTEEN DAYS AFTER SERVICE OF THE TRANSFEREE'S  
15 NOTICE, IN ORDER TO BE CONSIDERED BY THE COURT OR RESPONSIBLE  
16 ADMINISTRATIVE AUTHORITY.

17 **13-23-107. General provisions - construction.** (1) THE  
18 PROVISIONS OF THIS ARTICLE MAY NOT BE WAIVED BY ANY PAYEE.

19 (2) ANY TRANSFER AGREEMENT ENTERED INTO ON OR AFTER JULY  
20 1, 2004, BY A PAYEE WHO RESIDES IN COLORADO SHALL PROVIDE THAT  
21 DISPUTES UNDER SUCH TRANSFER AGREEMENT, INCLUDING ANY CLAIM  
22 THAT THE PAYEE HAS BREACHED THE AGREEMENT, SHALL BE DETERMINED  
23 IN AND UNDER THE LAWS OF COLORADO. NO SUCH TRANSFER AGREEMENT  
24 SHALL AUTHORIZE THE TRANSFEREE OR ANY OTHER PARTY TO CONFESS  
25 JUDGMENT OR CONSENT TO ENTRY OF JUDGMENT AGAINST THE PAYEE.

26 (3) A TRANSFER OF STRUCTURED SETTLEMENT PAYMENT RIGHTS  
27 SHALL NOT EXTEND TO ANY PAYMENTS THAT ARE LIFE-CONTINGENT

1 UNLESS, PRIOR TO THE DATE ON WHICH THE PAYEE SIGNS THE TRANSFER  
2 AGREEMENT, THE TRANSFEREE HAS ESTABLISHED AND HAS AGREED TO  
3 MAINTAIN PROCEDURES REASONABLY SATISFACTORY TO THE ANNUITY  
4 ISSUER AND THE STRUCTURED SETTLEMENT OBLIGOR FOR PERIODICALLY  
5 CONFIRMING THE PAYEE'S SURVIVAL AND GIVING THE ANNUITY ISSUER AND  
6 THE STRUCTURED SETTLEMENT OBLIGOR PROMPT WRITTEN NOTICE IN THE  
7 EVENT OF THE PAYEE'S DEATH.

8 (4) A PAYEE WHO PROPOSES TO MAKE A TRANSFER OF A  
9 STRUCTURED SETTLEMENT PAYMENT RIGHT SHALL NOT INCUR ANY  
10 PENALTY, FORFEIT ANY APPLICATION FEE OR OTHER PAYMENT, OR  
11 OTHERWISE INCUR ANY LIABILITY TO THE PROPOSED TRANSFEREE OR ANY  
12 ASSIGNEE BASED ON A FAILURE OF SUCH TRANSFER TO SATISFY THE  
13 CONDITIONS OF THIS ARTICLE.

14 (5) NOTHING CONTAINED IN THIS ARTICLE SHALL BE CONSTRUED  
15 TO AUTHORIZE A TRANSFER OF A STRUCTURED SETTLEMENT PAYMENT  
16 RIGHT IN CONTRAVENTION OF ANY LAW OR TO IMPLY THAT A TRANSFER  
17 UNDER A TRANSFER AGREEMENT ENTERED INTO PRIOR TO JULY 1, 2004, IS  
18 VALID OR INVALID.

19 (6) COMPLIANCE WITH THE REQUIREMENTS SET FORTH IN SECTION  
20 13-23-103 AND FULFILLMENT OF THE CONDITIONS SET FORTH IN SECTION  
21 13-23-104 SHALL BE SOLELY THE RESPONSIBILITY OF THE TRANSFEREE IN  
22 A TRANSFER OF STRUCTURED SETTLEMENT PAYMENT RIGHTS, AND NEITHER  
23 THE STRUCTURED SETTLEMENT OBLIGOR NOR THE ANNUITY ISSUER SHALL  
24 BEAR RESPONSIBILITY FOR, OR ANY LIABILITY ARISING FROM,  
25 NON-COMPLIANCE WITH SUCH REQUIREMENTS OR FAILURE TO FULFILL  
26 SUCH CONDITIONS.

27 **13-23-108. Exception - judgment for periodic payment against**

1     **a health care professional or institution.** NOTHING IN THIS ARTICLE  
2     SHALL APPLY TO A JUDGMENT ENTERED PURSUANT TO THE PROVISIONS OF  
3     PART 2 OF ARTICLE 64 OF THIS TITLE.

4             **SECTION 2. Effective date - applicability.** This act shall take  
5     effect July 1, 2004, and shall apply to agreements to transfer a structured  
6     settlement payment right executed on or after said date.

7             **SECTION 3. Safety clause.** The general assembly hereby finds,  
8     determines, and declares that this act is necessary for the immediate  
9     preservation of the public peace, health, and safety.