

SENATE BILL 734

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6lr2315
CF HB 535

By: **The President (By Request – Office of the Attorney General) and Senators Raskin, Brochin, Feldman, Gladden, Kagan, Lee, Muse, Pugh, and Ramirez**
Introduced and read first time: February 5, 2016
Assigned to: Judicial Proceedings

A BILL ENTITLED

1 AN ACT concerning

2 **Courts and Judicial Proceedings – Structured Settlements – Transfers**

3 FOR the purpose of making certain legislative findings and declarations; altering the
4 findings that an order of a court authorizing a transfer of certain structured
5 settlement rights is required to be based on; requiring an application for a transfer
6 of structured settlement payment rights to be filed in a certain court; authorizing
7 the Attorney General to adopt and enforce certain regulations; altering a certain
8 definition; and generally relating to structured settlements.

9 BY repealing and reenacting, with amendments,
10 Article – Courts and Judicial Proceedings
11 Section 5–1101(c), 5–1102, and 5–1103(a)
12 Annotated Code of Maryland
13 (2013 Replacement Volume and 2015 Supplement)

14 BY adding to
15 Article – Courts and Judicial Proceedings
16 Section 5–1101.1 and 5–1106
17 Annotated Code of Maryland
18 (2013 Replacement Volume and 2015 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
20 That the Laws of Maryland read as follows:

21 **Article – Courts and Judicial Proceedings**

22 5–1101.

23 (c) “Independent professional advice” means advice of an attorney, certified
24 public accountant, actuary, or other licensed professional adviser:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (1) Who is engaged by a payee to render advice concerning [the legal, tax,
2 and financial implications of a] **WHETHER A PROPOSED** transfer of structured settlement
3 payment rights **WOULD BE IN THE BEST INTEREST OF THE PAYEE, TAKING INTO**
4 **ACCOUNT THE WELFARE AND SUPPORT OF THE PAYEE'S DEPENDENTS;**

5 (2) Who is not affiliated with or compensated by the transferee of the
6 transfer; and

7 (3) Whose compensation is not affected by whether a transfer occurs.

8 **5-1101.1.**

9 **THE GENERAL ASSEMBLY FINDS AND DECLARES THAT IT IS NECESSARY TO**
10 **REGULATE TRANSFERS OF STRUCTURED SETTLEMENT PAYMENT RIGHTS TO:**

11 (1) **ENSURE THAT THE TRANSFERS ARE EFFECTUATED ON FAIR AND**
12 **REASONABLE TERMS AND ARE IN THE BEST INTERESTS OF PAYEES; AND**

13 (2) **PROTECT PAYEES AGAINST DECEPTIVE PRACTICES.**

14 **5-1102.**

15 (a) A direct or indirect transfer of structured settlement payment rights to a
16 transferee is effective as provided in this subtitle.

17 (b) A structured settlement obligor or annuity issuer may not make any payment
18 directly or indirectly to a transferee of structured settlement payment rights unless the
19 transfer is authorized in an order of a court based on [a finding] **EXPRESS FINDINGS** that:

20 (1) The transfer is necessary, reasonable, [or] **AND** appropriate **AND IN**
21 **THE BEST INTEREST OF THE PAYEE, TAKING INTO ACCOUNT THE WELFARE AND**
22 **SUPPORT OF THE PAYEE'S DEPENDENTS;**

23 (2) [The transfer is not expected to subject the payee, the payee's
24 dependents, or both, to undue or unreasonable financial hardship in the future;

25 (3)] The payee received independent professional advice [regarding the
26 legal, tax, and financial implications of] **CONCERNING** the **PROPOSED** transfer; and

27 [(4)] (3) The transferee disclosed to the payee the discounted present
28 value.

29 **5-1103.**

1 (a) [The circuit court that has jurisdiction over an interested party or the circuit
2 court for the county in which the original claim occurred shall have nonexclusive
3 jurisdiction over an] **AN** application for a transfer of structured settlement payment rights
4 under § 5-1102 of this subtitle **SHALL BE FILED:**

5 (1) **IF THE PAYEE RESIDES IN THIS STATE, IN THE CIRCUIT COURT**
6 **FOR THE COUNTY IN WHICH THE PAYEE RESIDES;**

7 (2) **IF THE PAYEE DOES NOT RESIDE IN THIS STATE AND ONE OR**
8 **MORE PRIOR APPLICATIONS FOR APPROVAL OF A PROPOSED TRANSFER HAVE BEEN**
9 **FILED IN THIS STATE, IN THE CIRCUIT COURT FOR THE COUNTY IN WHICH THE MOST**
10 **RECENT APPLICATION WAS FILED; OR**

11 (3) **IF THE PAYEE DOES NOT RESIDE IN THIS STATE AND NO PRIOR**
12 **APPLICATIONS FOR APPROVAL OF A PROPOSED TRANSFER HAVE BEEN FILED IN**
13 **THIS STATE, IN ANY CIRCUIT COURT.**

14 **5-1106.**

15 **THE ATTORNEY GENERAL MAY ADOPT AND ENFORCE REGULATIONS TO**
16 **CARRY OUT THE PURPOSES OF THIS SUBTITLE, INCLUDING REGULATIONS**
17 **ESTABLISHING A DISCOUNT RATE APPLICABLE TO TRANSFERS OF STRUCTURED**
18 **SETTLEMENT PAYMENTS ABOVE WHICH A PROPOSED TRANSFER SHALL BE**
19 **PRESUMED TO BE NOT IN THE BEST INTEREST OF A PAYEE.**

20 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
21 October 1, 2016.