

---

By: **Delegates Dembrow and Montague**  
Introduced and read first time: March 2, 1999  
Assigned to: Rules and Executive Nominations  
Re-referred to: Judiciary, March 4, 1999

---

Committee Report: Favorable with amendments  
House action: Adopted  
Read second time: March 27, 1999

---

CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Courts - Transfer of Structured Settlement Payment Rights**

3 FOR the purpose of providing for certain conditions under which a direct or indirect  
4 transfer of structured settlement payment rights is effective; requiring a certain  
5 obligor or annuity issuer to make payments to any transferee of structured  
6 settlement payment rights if the transfer has been authorized in ~~a final~~ an order  
7 of a court based on certain findings; providing for the jurisdiction over ~~and~~  
8 ~~standing in~~ cases involving transfers of structured settlement payment rights;  
9 requiring a certain transferee to provide certain information to the court and  
10 certain parties; providing certain immunity to a structured settlement obligor or  
11 annuity issuer when a payee makes a transfer of structured settlement payment  
12 rights in violation of this subtitle; defining certain terms; providing for the  
13 application and construction of this Act; and generally relating to the transfer of  
14 structured settlement payment rights.

15 BY adding to  
16 Article - Courts and Judicial Proceedings  
17 Section 5-1101 through ~~5-1103~~ 5-1105, inclusive, to be under the new subtitle  
18 "Subtitle 11. Structured Settlements"  
19 Annotated Code of Maryland  
20 (1998 Replacement Volume)

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

1 **Article - Courts and Judicial Proceedings**

## 2 SUBTITLE 11. STRUCTURED SETTLEMENTS.

3 5-1101.

4 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
5 INDICATED.6 (B) "DISCOUNTED PRESENT VALUE" MEANS THE FAIR PRESENT VALUE OF  
7 FUTURE PAYMENTS, AS DETERMINED BY DISCOUNTING PAYMENTS TO THE PRESENT  
8 USING THE MOST RECENTLY PUBLISHED APPLICABLE FEDERAL RATE FOR  
9 DETERMINING THE PRESENT VALUE OF AN ANNUITY, AS ISSUED BY THE UNITED  
10 STATES INTERNAL REVENUE SERVICE.11 (C) "INDEPENDENT PROFESSIONAL ADVICE" MEANS ADVICE OF AN  
12 ATTORNEY, CERTIFIED PUBLIC ACCOUNTANT, ACTUARY, OR OTHER LICENSED  
13 PROFESSIONAL ADVISER:14 (1) WHO IS ENGAGED BY A PAYEE TO RENDER ADVICE CONCERNING  
15 THE LEGAL, TAX, AND FINANCIAL IMPLICATIONS OF A TRANSFER OF STRUCTURED  
16 SETTLEMENT PAYMENT RIGHTS;17 (2) WHO IS NOT AFFILIATED WITH OR COMPENSATED BY THE  
18 TRANSFeree OF THE TRANSFER; AND19 (3) WHOSE COMPENSATION IS NOT AFFECTED BY WHETHER A  
20 TRANSFER OCCURS.21 (D) "INTERESTED PARTIES" MEANS THE PAYEE, ANY BENEFICIARY  
22 DESIGNATED UNDER THE ANNUITY CONTRACT TO RECEIVE PAYMENTS FOLLOWING  
23 THE PAYEE'S DEATH, THE ANNUITY ISSUER, THE STRUCTURED SETTLEMENT  
24 OBLIGOR, AND ANY OTHER PARTY THAT HAS CONTINUING RIGHTS OR OBLIGATIONS  
25 UNDER A STRUCTURED SETTLEMENT.26 (E) "PAYEE" MEANS AN INDIVIDUAL WHO IS RECEIVING TAX-FREE DAMAGE  
27 PAYMENTS UNDER A STRUCTURED SETTLEMENT AND PROPOSES TO MAKE A  
28 TRANSFER OF PAYMENT RIGHTS.29 (F) "RESPONSIBLE ADMINISTRATIVE AUTHORITY" MEANS ANY GOVERNMENT  
30 AUTHORITY VESTED WITH EXCLUSIVE JURISDICTION OVER THE SETTLED CLAIM  
31 RESOLVED BY A STRUCTURED SETTLEMENT.32 (G) (1) "STRUCTURED SETTLEMENT" MEANS AN ARRANGEMENT FOR  
33 PERIODIC PAYMENT OF DAMAGES FOR PERSONAL INJURY ESTABLISHED BY  
34 SETTLEMENT OR JUDGMENT IN RESOLUTION OF A TORT CLAIM.35 (2) "STRUCTURED SETTLEMENT" DOES NOT INCLUDE AN  
36 ARRANGEMENT FOR PERIODIC PAYMENT OF DAMAGES FOR PERSONAL INJURY  
37 ESTABLISHED BY A JUDGMENT BY CONFESSION.

1 (H) "STRUCTURED SETTLEMENT AGREEMENT" MEANS THE AGREEMENT,  
2 JUDGMENT, STIPULATION, OR RELEASE EMBODYING THE TERMS OF A STRUCTURED  
3 SETTLEMENT.

4 (I) "STRUCTURED SETTLEMENT OBLIGOR" MEANS A PARTY WHO HAS THE  
5 CONTINUING PERIODIC PAYMENT OBLIGATION TO THE PAYEE UNDER A  
6 STRUCTURED SETTLEMENT AGREEMENT OR A QUALIFIED ASSIGNMENT  
7 AGREEMENT.

8 (J) "STRUCTURED SETTLEMENT PAYMENT RIGHTS" MEANS THE RIGHTS TO  
9 RECEIVE PERIODIC PAYMENTS, INCLUDING LUMP-SUM PAYMENTS UNDER  
10 STRUCTURED SETTLEMENT, WHETHER FROM THE SETTLEMENT OBLIGOR OR THE  
11 ANNUITY ISSUER, IF:

12 (1) AN INTERESTED PARTY IS DOMICILED IN THIS STATE;

13 (2) THE STRUCTURED SETTLEMENT AGREEMENT WAS APPROVED BY A  
14 COURT OR RESPONSIBLE ADMINISTRATIVE AUTHORITY IN THIS STATE; OR

15 (3) THE SETTLED CLAIM WAS PENDING BEFORE A COURT OF THIS STATE  
16 WHEN THE PARTIES ENTERED INTO THE STRUCTURED SETTLEMENT AGREEMENT.

17 (K) "TERMS OF THE STRUCTURED SETTLEMENT" INCLUDES THE TERMS OF  
18 THE STRUCTURED SETTLEMENT AGREEMENT, THE ANNUITY CONTRACT, ANY  
19 QUALIFIED ASSIGNMENT, AND ANY ORDER OR APPROVAL OF ANY COURT OR  
20 RESPONSIBLE ADMINISTRATIVE AUTHORITY AUTHORIZING OR APPROVING A  
21 STRUCTURED SETTLEMENT.

22 (L) "TRANSFER" MEANS ANY SALE, ASSIGNMENT, PLEDGE, HYPOTHECATION,  
23 OR OTHER FORM OF ALIENATION OR ENCUMBRANCE MADE BY A PAYEE FOR  
24 CONSIDERATION.

25 (M) "TRANSFER AGREEMENT" MEANS THE AGREEMENT PROVIDING FOR THE  
26 TRANSFER OF STRUCTURED SETTLEMENT PAYMENT RIGHTS FROM A PAYEE TO A  
27 TRANSFeree.

28 5-1102.

29 (A) A DIRECT OR INDIRECT TRANSFER OF STRUCTURED SETTLEMENT  
30 PAYMENT RIGHTS IS EFFECTIVE AS PROVIDED IN THIS SUBTITLE.

31 (B) A STRUCTURED SETTLEMENT OBLIGOR OR ANNUITY ISSUER SHALL MAKE  
32 ANY PAYMENT DIRECTLY OR INDIRECTLY TO ANY TRANSFEREE OF STRUCTURED  
33 SETTLEMENT PAYMENT RIGHTS IF:

34 (1) THE TRANSFER HAS BEEN AUTHORIZED IN ~~A FINAL~~ AN ORDER OF A  
35 COURT BASED ON A FINDING THAT THE TRANSFER IS NECESSARY, REASONABLE, OR  
36 APPROPRIATE TO ~~ENABLE THE PAYEE, THE PAYEE'S DEPENDENTS, OR BOTH TO~~  
37 AVOID FINANCIAL HARDSHIP, AND;

1           (2)     THE TRANSFER IS NOT EXPECTED TO SUBJECT THE PAYEE, THE  
2 PAYEE'S DEPENDENTS, OR BOTH TO UNDUE OR UNREASONABLE FINANCIAL  
3 HARDSHIP IN THE FUTURE;

4           (3)     THE PAYEE RECEIVED INDEPENDENT PROFESSIONAL ADVICE  
5 REGARDING THE LEGAL, TAX, AND FINANCIAL IMPLICATIONS OF THE TRANSFER;  
6 AND

7           (4)     THE TRANSFEREE DISCLOSED TO THE PAYEE THE DISCOUNTED  
8 PRESENT VALUE.

9 ~~5-1102. 5-1103.~~

10       (A)     THE CIRCUIT COURT THAT HAS JURISDICTION OVER A PERSON OR THE  
11 COUNTY IN WHICH THE ORIGINAL CLAIM OCCURRED SHALL HAVE NONEXCLUSIVE  
12 JURISDICTION OVER ANY APPLICATION FOR TRANSFER OF STRUCTURED  
13 SETTLEMENT PAYMENT RIGHTS UNDER ~~§ 5-1101~~ § 5-1102 OF THIS SUBTITLE.

14       (B)     THE TRANSFEREE SHALL FILE WITH THE COURT AND SERVE ON ALL  
15 INTERESTED PARTIES, A NOTICE OF THE PROPOSED TRANSFER AND THE  
16 APPLICATION FOR ITS AUTHORIZATION, INCLUDING:

17           (1)     A COPY OF THE TRANSFEREE'S APPLICATION;

18           (2)     A COPY OF THE TRANSFER AGREEMENT; AND

19           (3)     NOTIFICATION:

20                   (I)     OF THE TIME AND PLACE OF THE HEARING; AND

21                   (II)    THAT ANY INTERESTED PARTY IS ENTITLED TO SUPPORT,  
22 OPPOSE, OR OTHERWISE RESPOND TO THE TRANSFEREE'S APPLICATION, EITHER IN  
23 PERSON OR BY COUNSEL, BY SUBMITTING WRITTEN COMMENTS TO THE COURT, OR  
24 BY PARTICIPATING IN THE HEARING.

25       (C)     ~~THE WORKERS' COMPENSATION COMMISSION OR COMMISSIONER OF~~  
26 ~~INSURANCE SHALL HAVE STANDING TO RAISE, APPEAR, AND BE HEARD ON ANY~~  
27 ~~MATTER RELATING TO AN APPLICATION FOR AUTHORIZATION OF A TRANSFER OF~~  
28 ~~STRUCTURED SETTLEMENT PAYMENT RIGHTS UNDER THIS SUBTITLE.~~

29 ~~5-1104.~~

30       IF A PAYEE MAKES A TRANSFER OF STRUCTURED SETTLEMENT PAYMENT  
31 RIGHTS IN VIOLATION OF THIS SUBTITLE, THE STRUCTURED SETTLEMENT OBLIGOR  
32 OR ANNUITY ISSUER SHALL NOT INCUR ANY ADDITIONAL LIABILITY.

33 ~~5-1103. 5-1105.~~

34       NOTHING CONTAINED IN THIS SUBTITLE MAY BE CONSTRUED TO AUTHORIZE  
35 ANY TRANSFER OF STRUCTURED SETTLEMENT PAYMENT RIGHTS IN  
36 CONTRAVENTION OF APPLICABLE LAW OR TO GIVE EFFECT TO ANY TRANSFER OF

1 STRUCTURED SETTLEMENT PAYMENT RIGHTS THAT IS INVALID UNDER APPLICABLE  
2 LAW.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall apply to  
4 any transfer of structured settlement payment rights under a transfer agreement  
5 entered into on or after the effective date of this Act; provided, however, that nothing  
6 contained in this section shall imply that any transfer under a transfer agreement  
7 entered into prior to the effective date of this Act is ineffective.

8 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect  
9 October 1, 1999.