
By: **Delegates Dembrow and Montague**
Introduced and read first time: February 2, 2000
Assigned to: Judiciary

A BILL ENTITLED

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

15 BY adding to
16 Article - Courts and Judicial Proceedings
17 Section 5-1101 through 5-1105, inclusive, to be under the new subtitle "Subtitle
18 11. Structured Settlements"
19 Annotated Code of Maryland
20 (1998 Replacement Volume and 1999 Supplement)

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

23 **Article - Courts and Judicial Proceedings**

24 **SUBTITLE 11. STRUCTURED SETTLEMENTS.**

25 5-1101.

26 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
27 INDICATED.

1 (B) "DISCOUNTED PRESENT VALUE" MEANS THE FAIR PRESENT VALUE OF
2 FUTURE PAYMENTS, AS DETERMINED BY DISCOUNTING PAYMENTS TO THE PRESENT
3 USING THE MOST RECENTLY PUBLISHED APPLICABLE FEDERAL RATE FOR
4 DETERMINING THE PRESENT VALUE OF AN ANNUITY, AS ISSUED BY THE UNITED
5 STATES INTERNAL REVENUE SERVICE.

6 (C) "INDEPENDENT PROFESSIONAL ADVICE" MEANS ADVICE OF AN
7 ATTORNEY, CERTIFIED PUBLIC ACCOUNTANT, ACTUARY, OR OTHER LICENSED
8 PROFESSIONAL ADVISER:

9 (1) WHO IS ENGAGED BY A PAYEE TO RENDER ADVICE CONCERNING
10 THE LEGAL, TAX, AND FINANCIAL IMPLICATIONS OF A TRANSFER OF STRUCTURED
11 SETTLEMENT PAYMENT RIGHTS;

12 (2) WHO IS NOT AFFILIATED WITH OR COMPENSATED BY THE
13 TRANSFEREE OF THE TRANSFER; AND

14 (3) WHOSE COMPENSATION IS NOT AFFECTED BY WHETHER A
15 TRANSFER OCCURS.

16 (D) "INTERESTED PARTIES" MEANS THE PAYEE, EACH BENEFICIARY
17 DESIGNATED UNDER THE ANNUITY CONTRACT TO RECEIVE PAYMENTS FOLLOWING
18 THE PAYEE'S DEATH, THE ANNUITY ISSUER, THE STRUCTURED SETTLEMENT
19 OBLIGOR, AND ANY OTHER PARTY THAT HAS CONTINUING RIGHTS OR OBLIGATIONS
20 UNDER A STRUCTURED SETTLEMENT.

21 (E) "PAYEE" MEANS AN INDIVIDUAL WHO RECEIVES DAMAGE PAYMENTS
22 THAT ARE NOT SUBJECT TO INCOME TAXATION UNDER A STRUCTURED SETTLEMENT
23 AND PROPOSES TO MAKE A TRANSFER OF PAYMENT RIGHTS.

24 (F) "RESPONSIBLE ADMINISTRATIVE AUTHORITY" MEANS A GOVERNMENT
25 AUTHORITY VESTED WITH EXCLUSIVE JURISDICTION OVER THE SETTLED CLAIM
26 RESOLVED BY A STRUCTURED SETTLEMENT.

27 (G) (1) "STRUCTURED SETTLEMENT" MEANS AN ARRANGEMENT FOR
28 PERIODIC PAYMENT OF DAMAGES FOR PERSONAL INJURY ESTABLISHED BY A
29 SETTLEMENT OR JUDGMENT IN RESOLUTION OF A TORT CLAIM.

30 (2) "STRUCTURED SETTLEMENT" DOES NOT INCLUDE AN
31 ARRANGEMENT FOR PERIODIC PAYMENT OF DAMAGES FOR PERSONAL INJURY
32 ESTABLISHED BY A JUDGMENT BY CONFESSION.

33 (H) "STRUCTURED SETTLEMENT AGREEMENT" MEANS AN AGREEMENT,
34 JUDGMENT, STIPULATION, OR RELEASE EMBODYING THE TERMS OF A STRUCTURED
35 SETTLEMENT.

36 (I) "STRUCTURED SETTLEMENT OBLIGOR" MEANS A PARTY WHO HAS THE
37 CONTINUING PERIODIC PAYMENT OBLIGATION TO THE PAYEE UNDER A
38 STRUCTURED SETTLEMENT AGREEMENT OR A QUALIFIED ASSIGNMENT
39 AGREEMENT.

1 (J) "STRUCTURED SETTLEMENT PAYMENT RIGHTS" MEANS THE RIGHTS TO
2 RECEIVE PERIODIC PAYMENTS, INCLUDING LUMP-SUM PAYMENTS UNDER A
3 STRUCTURED SETTLEMENT, WHETHER FROM THE SETTLEMENT OBLIGOR OR THE
4 ANNUITY ISSUER, IF:

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

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

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

10 (K) "TERMS OF THE STRUCTURED SETTLEMENT" INCLUDES THE TERMS OF
11 THE STRUCTURED SETTLEMENT AGREEMENT, THE ANNUITY CONTRACT, A
12 QUALIFIED ASSIGNMENT, AND AN ORDER OR APPROVAL OF A COURT OR
13 RESPONSIBLE ADMINISTRATIVE AUTHORITY AUTHORIZING OR APPROVING A
14 STRUCTURED SETTLEMENT.

15 (L) "TRANSFER" MEANS A SALE, ASSIGNMENT, PLEDGE, HYPOTHECATION, OR
16 OTHER FORM OF ALIENATION OR ENCUMBRANCE MADE BY A PAYEE FOR
17 CONSIDERATION.

18 (M) "TRANSFER AGREEMENT" MEANS THE AGREEMENT PROVIDING FOR THE
19 TRANSFER OF STRUCTURED SETTLEMENT PAYMENT RIGHTS FROM A PAYEE TO A
20 TRANSFEREE.

21 5-1102.

22 (A) A DIRECT OR INDIRECT TRANSFER OF STRUCTURED SETTLEMENT
23 PAYMENT RIGHTS TO A TRANSFEREE IS EFFECTIVE AS PROVIDED IN THIS SUBTITLE.

24 (B) A STRUCTURED SETTLEMENT OBLIGOR OR ANNUITY ISSUER SHALL MAKE
25 ANY PAYMENT DIRECTLY OR INDIRECTLY TO A TRANSFEREE OF STRUCTURED
26 SETTLEMENT PAYMENT RIGHTS IF:

27 (1) THE TRANSFER IS AUTHORIZED IN AN ORDER OF A COURT BASED ON
28 A FINDING THAT THE TRANSFER IS NECESSARY, REASONABLE, OR APPROPRIATE;

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

32 (3) THE PAYEE RECEIVED INDEPENDENT PROFESSIONAL ADVICE
33 REGARDING THE LEGAL, TAX, AND FINANCIAL IMPLICATIONS OF THE TRANSFER;
34 AND

35 (4) THE TRANSFEREE DISCLOSED TO THE PAYEE THE DISCOUNTED
36 PRESENT VALUE.

1 5-1103.

2 (A) THE CIRCUIT COURT THAT HAS JURISDICTION OVER A PERSON OR THE
3 COUNTY IN WHICH THE ORIGINAL CLAIM OCCURRED SHALL HAVE NONEXCLUSIVE
4 JURISDICTION OVER AN APPLICATION FOR A TRANSFER OF STRUCTURED
5 SETTLEMENT PAYMENT RIGHTS UNDER § 5-1102 OF THIS SUBTITLE.

6 (B) A TRANSFEREE SHALL FILE WITH THE COURT AND SERVE ON THE
7 INTERESTED PARTIES, A NOTICE OF THE PROPOSED TRANSFER AND AN
8 APPLICATION FOR ITS AUTHORIZATION, INCLUDING:

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

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

11 (3) NOTIFICATION:

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

13 (II) THAT EACH INTERESTED PARTY IS ENTITLED TO SUPPORT,
14 OPPOSE, OR OTHERWISE RESPOND TO THE TRANSFEREE'S APPLICATION, IN PERSON
15 OR BY COUNSEL, BY SUBMITTING WRITTEN COMMENTS TO THE COURT OR BY
16 PARTICIPATING IN THE HEARING.

17 5-1104.

18 IF A PAYEE MAKES A TRANSFER OF STRUCTURED SETTLEMENT PAYMENT
19 RIGHTS IN VIOLATION OF THIS SUBTITLE, THE STRUCTURED SETTLEMENT OBLIGOR
20 OR ANNUITY ISSUER MAY NOT INCUR ANY ADDITIONAL LIABILITY.

21 5-1105.

22 NOTHING CONTAINED IN THIS SUBTITLE MAY BE CONSTRUED TO AUTHORIZE A
23 TRANSFER OF STRUCTURED SETTLEMENT PAYMENT RIGHTS IN CONTRAVENTION OF
24 APPLICABLE LAW OR TO GIVE EFFECT TO A TRANSFER OF STRUCTURED
25 SETTLEMENT PAYMENT RIGHTS THAT IS INVALID UNDER APPLICABLE LAW.

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

31 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
32 October 1, 2000.