

# HOUSE BILL 42

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6lr0631

(PRE-FILED)

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By: **Delegate Haynes**

Requested: August 28, 2015

Introduced and read first time: January 13, 2016

Assigned to: Judiciary

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## A BILL ENTITLED

1 AN ACT concerning

2 **Transfer of Structured Settlements – Childhood Lead Poisoning Claims –**  
3 **Requirements and Limitations**

4 FOR the purpose of requiring an application for authorization of a transfer of certain  
5 structured settlement payment rights to be filed in a certain court; requiring a  
6 certain payee to appear in person at the hearing on an application for authorization  
7 of a transfer of certain structured settlement payment rights; prohibiting a certain  
8 payee from transferring more than a certain amount of the discounted present value  
9 of future payments under a structured settlement agreement; requiring the court to  
10 make a certain inquiry at the hearing on an application for authorization of a  
11 transfer of certain structured settlement payment rights; providing for the  
12 application of this Act; and generally relating to structured settlements.

13 BY repealing and reenacting, without amendments,  
14 Article – Courts and Judicial Proceedings  
15 Section 5–1102  
16 Annotated Code of Maryland  
17 (2013 Replacement Volume and 2015 Supplement)

18 BY repealing and reenacting, with amendments,  
19 Article – Courts and Judicial Proceedings  
20 Section 5–1103  
21 Annotated Code of Maryland  
22 (2013 Replacement Volume and 2015 Supplement)

23 BY adding to  
24 Article – Courts and Judicial Proceedings  
25 Section 5–1103.1  
26 Annotated Code of Maryland  
27 (2013 Replacement Volume and 2015 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

3 **Article – Courts and Judicial Proceedings**

4 5–1102.

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

7 (b) A structured settlement obligor or annuity issuer may not make any payment  
8 directly or indirectly to a transferee of structured settlement payment rights unless the  
9 transfer is authorized in an order of a court based on a finding that:

10 (1) The transfer is necessary, reasonable, or appropriate;

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

13 (3) The payee received independent professional advice regarding the  
14 legal, tax, and financial implications of the transfer; and

15 (4) The transferee disclosed to the payee the discounted present value.

16 5–1103.

17 (a) **[The] EXCEPT AS PROVIDED IN § 5–1103.1 OF THIS SUBTITLE, THE** circuit  
18 court that has jurisdiction over an interested party or the circuit court for the county in  
19 which the original claim occurred shall have nonexclusive jurisdiction over an application  
20 for a transfer of structured settlement payment rights under § 5–1102 of this subtitle.

21 (b) A transferee shall file with the court and serve on the interested parties at  
22 least 20 days before the hearing on the application, a notice of the proposed transfer and  
23 an application for its authorization, including:

24 (1) A copy of the transferee's application;

25 (2) A copy of the transfer agreement; and

26 (3) Notification:

27 (i) Of the time and place of the hearing; and

28 (ii) That each interested party is entitled to support, oppose, or  
29 otherwise respond to the transferee's application, in person or by counsel, by submitting  
30 written comments to the court or by participating in the hearing.

1 **5-1103.1.**

2 (A) THIS SECTION APPLIES ONLY TO A PROPOSED TRANSFER OF  
3 STRUCTURED SETTLEMENT PAYMENT RIGHTS RESULTING FROM A SETTLEMENT OR  
4 JUDGMENT IN RESOLUTION OF A CLAIM FOR DAMAGES FOR PERSONAL INJURY  
5 CAUSED BY THE INGESTION OF LEAD BY A MINOR.

6 (B) AN APPLICATION FOR AUTHORIZATION OF A TRANSFER OF  
7 STRUCTURED SETTLEMENT PAYMENT RIGHTS SHALL BE FILED IN:

8 (1) THE CIRCUIT COURT FOR THE COUNTY IN WHICH THE PAYEE IS  
9 DOMICILED; OR

10 (2) IF THE PAYEE IS NOT DOMICILED IN THIS STATE, IN THE CIRCUIT  
11 COURT IN THIS STATE THAT APPROVED THE STRUCTURED SETTLEMENT  
12 AGREEMENT OR IN WHICH THE SETTLED CLAIM WAS PENDING WHEN THE PARTIES  
13 ENTERED INTO THE STRUCTURED SETTLEMENT.

14 (C) THE PAYEE SHALL APPEAR IN PERSON AT THE HEARING ON AN  
15 APPLICATION FOR AUTHORIZATION OF A TRANSFER OF STRUCTURED SETTLEMENT  
16 PAYMENT RIGHTS.

17 (D) (1) A PAYEE MAY NOT TRANSFER MORE THAN 25% OF THE  
18 DISCOUNTED PRESENT VALUE OF FUTURE PAYMENTS UNDER THE STRUCTURED  
19 SETTLEMENT AGREEMENT, CALCULATED AS OF THE DATE THE STRUCTURED  
20 SETTLEMENT AGREEMENT WAS APPROVED BY A COURT.

21 (2) AT THE HEARING ON AN APPLICATION FOR AUTHORIZATION OF A  
22 TRANSFER OF STRUCTURED SETTLEMENT PAYMENT RIGHTS, THE COURT SHALL  
23 INQUIRE WHETHER THE PAYEE HAS ENTERED INTO ANY PRIOR AGREEMENTS TO  
24 TRANSFER STRUCTURED SETTLEMENT PAYMENT RIGHTS.

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to  
26 apply only prospectively and may not be applied or interpreted to have any effect on or  
27 application to any transfer of structured settlement payment rights under a transfer  
28 agreement approved by a court before the effective date of this Act.

29 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect June  
30 1, 2016.