

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

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 24, 2016

CHAPTER _____

1 AN ACT concerning

2 **Courts and Judicial Proceedings – Structured Settlements – Transfers and**
3 **Registration of Structured Settlement Transferees**

4 FOR the purpose of making certain legislative findings and declarations; altering the
5 findings that an order of a court authorizing a transfer of certain structured
6 settlement rights is required to be based on; requiring a transferee to provide to a
7 payee a certain disclosure statement; requiring ~~an application~~ a petition for a
8 transfer of structured settlement payment rights to be filed in a certain court;
9 establishing certain requirements concerning a proposed transfer of structured
10 settlement payment rights concerning certain tort claims; prohibiting a person from
11 filing a petition for transfer of structured settlement payment rights unless the
12 person is registered with the Attorney General or has a pending application for
13 registration under certain circumstances; establishing registration requirements;
14 requiring a transferee to file a certain letter of credit or bond with the Attorney
15 General or deposit cash in a certain amount with the Attorney General; authorizing
16 the Attorney General to suspend or revoke the registration of a structured settlement
17 transferee or deny an application for registration under certain circumstances;
18 authorizing the Attorney General to impose a certain civil penalty; requiring the
19 Attorney General to consider certain factors in making certain determinations;
20 providing for the application of certain provisions of the Administrative Procedure
21 Act; requiring a structured settlement obligor to submit a certain statement to
22 certain persons under certain circumstances; authorizing the Attorney General to
23 adopt ~~and enforce~~ certain regulations; altering ~~a certain definition~~ definitions;
24 defining certain terms; and generally relating to structured settlements.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 BY renumbering

2 Article – Courts and Judicial Proceedings
 3 Section 5–1104 and 5–1105, respectively
 4 to be Section 5–1105 and 5–1106, respectively
 5 Annotated Code of Maryland
 6 (2013 Replacement Volume and 2015 Supplement)

7 BY repealing and reenacting, with amendments,

8 Article – Courts and Judicial Proceedings
 9 Section ~~5–1101(e)~~ 5–1101, 5–1102, and ~~5–1103(a)~~ 5–1103
 10 Annotated Code of Maryland
 11 (2013 Replacement Volume and 2015 Supplement)

12 BY adding to

13 Article – Courts and Judicial Proceedings
 14 Section 5–1101.1 ~~and 5–1106~~, 5–1104, and 5–1107 through 5–1112
 15 Annotated Code of Maryland
 16 (2013 Replacement Volume and 2015 Supplement)

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

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 20 That Section(s) 5–1104 and 5–1105, respectively, of Article – Courts and Judicial
 21 Proceedings of the Annotated Code of Maryland be renumbered to be Section(s) 5–1105 and
 22 5–1106, respectively.

23 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read
 24 as follows:

25 **Article – Courts and Judicial Proceedings**

26 5–1101.

27 (a) In this subtitle the following words have the meanings indicated.

28 (b) “Discounted present value” means the fair present value of future payments,
 29 as determined by discounting payments to the present using the most recently published
 30 applicable federal rate for determining the present value of an annuity, as issued by the
 31 United States Internal Revenue Service.

32 (c) “GIFT” MEANS A TRANSFER TO A PAYEE OF ANYTHING OF ECONOMIC
 33 VALUE, REGARDLESS OF FORM, AS AN INDUCEMENT TO ENTER INTO A TRANSFER
 34 AGREEMENT OR PURSUE A TRANSFER, EXCEPT:

1 **(1) THE ACTUAL COST, NOT TO EXCEED \$100, OF THE PAYEE'S**
2 **TRANSPORTATION TO A HEARING CONCERNING A PETITION FILED UNDER § 5-1102**
3 **OF THIS SUBTITLE; AND**

4 **(2) THE COSTS OF POSTAGE, OVERNIGHT DELIVERY SERVICES,**
5 **DOCUMENT RETRIEVAL FEES, AND NOTARY SERVICES ASSOCIATED WITH THE FILING**
6 **OF A PETITION UNDER § 5-1102 OF THIS SUBTITLE.**

7 ~~(e)~~ **(D)** “Independent professional advice” means advice of an attorney,
8 certified public accountant, actuary, or other licensed professional adviser:

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

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

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

16 **[(d)] (E)** “Interested parties” means the payee, each beneficiary designated
17 under the annuity contract to receive payments following the payee's death, the annuity
18 issuer, the structured settlement obligor, and any other party that has continuing rights or
19 obligations under a structured settlement.

20 **[(e)] (F)** “Payee” means an individual who receives damage payments that are
21 not subject to income taxation under a structured settlement and proposes to make a
22 transfer of payment rights.

23 **(G) “REGISTRANT” MEANS A PERSON REGISTERED WITH THE ATTORNEY**
24 **GENERAL UNDER THIS SUBTITLE.**

25 **[(f)] (H)** “Responsible administrative authority” means a government authority
26 vested with exclusive jurisdiction over the settled claim resolved by a structured
27 settlement.

28 **[(g)] (I)** (1) “Structured settlement” means an arrangement for periodic
29 payment of damages for personal injury established by a settlement or judgment in
30 resolution of a tort claim.

31 (2) “Structured settlement” does not include an arrangement for periodic
32 payment of damages for personal injury established by a judgment by confession.

1 [(h)] (J) “Structured settlement agreement” means an agreement, judgment,
2 stipulation, or release embodying the terms of a structured settlement.

3 [(i)] (K) “Structured settlement obligor” means a party who has the continuing
4 periodic payment obligation to the payee under a structured settlement agreement or a
5 qualified assignment agreement.

6 [(j)] (L) “Structured settlement payment rights” means the rights to receive
7 periodic payments, including lump-sum payments under a structured settlement, whether
8 from the settlement obligor or the annuity issuer, if:

9 (1) [An interested party is domiciled] THE PAYEE RESIDES in this State;

10 (2) The structured settlement agreement was approved by a court or
11 responsible administrative authority in this State, AND THE PAYEE DOES NOT RESIDE
12 IN ANOTHER STATE OR JURISDICTION THAT HAS ENACTED A STATUTE PROVIDING
13 FOR ENTRY OF A QUALIFIED ORDER AS DEFINED IN 26 U.S.C. § 5891(B)(2); or

14 (3) The settled claim was pending before a court of this State when the
15 parties entered into the structured settlement agreement, AND THE PAYEE DOES NOT
16 RESIDE IN ANOTHER STATE OR JURISDICTION THAT HAS ENACTED A STATUTE
17 PROVIDING FOR ENTRY OF A QUALIFIED ORDER AS DEFINED IN 26 U.S.C. §
18 5891(B)(2).

19 [(k)] (M) “Terms of the structured settlement” includes the terms of the
20 structured settlement agreement, the annuity contract, a qualified assignment, and an
21 order or approval of a court or responsible administrative authority authorizing or
22 approving a structured settlement.

23 [(l)] (N) “Transfer” means a sale, assignment, pledge, hypothecation, or other
24 form of alienation or encumbrance made by a payee for consideration.

25 [(m)] (O) “Transfer agreement” means the agreement providing for the transfer
26 of structured settlement payment rights from a payee to a transferee.

27 (P) “TRANSFeree” MEANS A PERSON ACQUIRING OR PROPOSING TO
28 ACQUIRE STRUCTURED SETTLEMENT PAYMENT RIGHTS THROUGH A TRANSFER.

29 **5-1101.1.**

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

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

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

2 5-1102.

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

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

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

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] **THE**
13 **FINANCIAL TERMS OF THE TRANSFER AGREEMENT ARE FAIR TO ALL PARTIES,**
14 **TAKING INTO ACCOUNT:**

15 **(I) THE DIFFERENCE BETWEEN THE AMOUNT PAYABLE TO THE**
16 **PAYEE AND THE DISCOUNTED PRESENT VALUE OF THE PAYMENTS TO BE**
17 **TRANSFERRED; AND**

18 **(II) THE DISCOUNT RATE APPLICABLE TO THE TRANSFER;**

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

21 ~~†(4) (3) The transferee disclosed to the payee the discounted present~~
22 ~~value~~ **AT LEAST 10 DAYS BEFORE THE DATE ON WHICH THE PAYEE SIGNED THE**
23 **TRANSFER AGREEMENT, THE TRANSFEREE PROVIDED TO THE PAYEE A SEPARATE**
24 **DISCLOSURE STATEMENT, IN AT LEAST 14 POINT BOLDFACE TYPE, THAT STATES:**

25 **(I) THE AMOUNTS AND DUE DATES OF THE STRUCTURED**
26 **SETTLEMENT PAYMENTS TO BE TRANSFERRED;**

27 **(II) THE AGGREGATE AMOUNT OF THE PAYMENTS TO BE**
28 **TRANSFERRED;**

29 **(III) THE DISCOUNTED PRESENT VALUE OF THE PAYMENTS TO**
30 **BE TRANSFERRED;**

1 (IV) THE AMOUNT PAYABLE TO THE PAYEE IN EXCHANGE FOR
 2 THE PAYMENTS TO BE TRANSFERRED;

3 (V) AN ITEMIZED LISTING OF ALL BROKERS' COMMISSIONS,
 4 SERVICE CHARGES, APPLICATION FEES, PROCESSING FEES, CLOSING COSTS, FILING
 5 FEES, ADMINISTRATIVE FEES, NOTARY FEES, AND OTHER CHARGES PAYABLE BY THE
 6 PAYEE OR DEDUCTIBLE FROM THE GROSS AMOUNT OTHERWISE PAYABLE TO THE
 7 PAYEE, EXCEPT ATTORNEY'S FEES AND RELATED DISBURSEMENTS;

8 (VI) THE TRANSFEREE'S BEST ESTIMATE OF THE AMOUNT OF
 9 ANY ATTORNEY'S FEES AND DISBURSEMENTS PAYABLE BY THE PAYEE OR
 10 DEDUCTIBLE FROM THE GROSS AMOUNT OTHERWISE PAYABLE TO THE PAYEE;

11 (VII) THE NET AMOUNT PAYABLE TO THE PAYEE AFTER
 12 DEDUCTION OF ALL COMMISSIONS, FEES, COSTS, EXPENSES, AND CHARGES
 13 DESCRIBED IN ITEMS (V) AND (VI) OF THIS ITEM;

14 (VIII) THE DISCOUNT RATE APPLICABLE TO THE TRANSFER,
 15 WHICH SHALL BE DISCLOSED IN THE FOLLOWING STATEMENT: "BASED ON THE NET
 16 AMOUNT THAT YOU WILL RECEIVE FROM US AND THE AMOUNTS AND TIMING OF THE
 17 STRUCTURED SETTLEMENT PAYMENTS THAT YOU ARE TRANSFERRING TO US, YOU
 18 WILL, IN EFFECT, BE PAYING INTEREST TO US AT A RATE OF _____ PERCENT PER YEAR.";

19 (IX) THE AMOUNT OF ANY PENALTY OR LIQUIDATED DAMAGES
 20 PAYABLE BY THE PAYEE IN THE EVENT OF ANY BREACH OF THE TRANSFER
 21 AGREEMENT BY THE PAYEE; AND

22 (X) A STATEMENT THAT THE PAYEE HAS THE RIGHT TO CANCEL
 23 THE TRANSFER AGREEMENT, WITHOUT PENALTY OR FURTHER OBLIGATION, AT ANY
 24 TIME BEFORE THE TRANSFER IS AUTHORIZED BY A COURT UNDER THIS SUBTITLE.

25 5-1103.

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

30 **(1) IF THE PAYEE RESIDES IN THIS STATE, IN THE CIRCUIT COURT**
 31 **FOR THE COUNTY IN WHICH THE PAYEE RESIDES; OR**

32 ~~**(2) IF THE PAYEE DOES NOT RESIDE IN THIS STATE AND ONE OR**~~
 33 ~~**MORE PRIOR APPLICATIONS FOR APPROVAL OF A PROPOSED TRANSFER HAVE BEEN**~~

~~FILED IN THIS STATE, IN THE CIRCUIT COURT FOR THE COUNTY IN WHICH THE MOST RECENT APPLICATION WAS FILED; OR~~

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

(2) IF THE PAYEE DOES NOT RESIDE IN THIS STATE, IN THE CIRCUIT COURT:

(I) THAT APPROVED THE STRUCTURED SETTLEMENT AGREEMENT; OR

(II) IN WHICH THE SETTLED CLAIM WAS PENDING WHEN THE PARTIES ENTERED INTO THE STRUCTURED SETTLEMENT AGREEMENT, IF THE STRUCTURED SETTLEMENT WAS NOT COURT APPROVED.

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

(1) A copy of the transferee's [application] PETITION;

(2) A copy of the transfer agreement; and

(3) Notification:

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

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

5-1104.

(A) IF, IN ANY PROPOSED TRANSFER OF STRUCTURED SETTLEMENT PAYMENT RIGHTS, THE STRUCTURED SETTLEMENT WAS ESTABLISHED IN RESOLUTION OF A TORT CLAIM SEEKING COMPENSATION FOR COGNITIVE INJURIES, INCLUDING ANY CLAIM ARISING FROM CHILDHOOD EXPOSURE TO LEAD PAINT, THE TRANSFEREE SHALL:

(1) NOTIFY THE COURT, IN THE PETITION FILED UNDER THIS SUBTITLE, THAT THE PAYEE MAY BE COGNITIVELY IMPAIRED;

1 **(2) ATTACH TO THE PETITION A COPY OF ANY COMPLAINT THAT WAS**
2 **PENDING WHEN THE STRUCTURED SETTLEMENT WAS ESTABLISHED; AND**

3 **(3) IDENTIFY ANY ALLEGATIONS OR STATEMENTS IN THE COMPLAINT**
4 **THAT DESCRIBE THE NATURE, EXTENT, OR CONSEQUENCES OF THE PAYEE'S**
5 **COGNITIVE INJURIES.**

6 **(B) (1) IN DETERMINING WHETHER TO AUTHORIZE A TRANSFER OF**
7 **STRUCTURED SETTLEMENT PAYMENT RIGHTS INVOLVING A STRUCTURED**
8 **SETTLEMENT ESTABLISHED IN RESOLUTION OF A TORT CLAIM SEEKING**
9 **COMPENSATION FOR COGNITIVE INJURIES, INCLUDING ANY CLAIM ARISING FROM**
10 **CHILDHOOD EXPOSURE TO LEAD PAINT, THE COURT SHALL CONSIDER WHETHER TO**
11 **APPOINT A GUARDIAN AD LITEM FOR THE PAYEE OR TO REQUIRE THE PAYEE TO BE**
12 **EXAMINED BY AN INDEPENDENT MENTAL HEALTH SPECIALIST DESIGNATED BY THE**
13 **COURT.**

14 **(2) THE TRANSFEREE SHALL BE RESPONSIBLE FOR THE PAYMENT OF**
15 **ANY FEES OF A GUARDIAN AD LITEM OR AN INDEPENDENT MENTAL HEALTH**
16 **SPECIALIST APPOINTED OR DESIGNATED BY THE COURT UNDER THIS SUBSECTION,**
17 **AS SET FORTH IN A BILLING STATEMENT SPECIFYING TO THE TENTH OF AN HOUR**
18 **THE AMOUNT OF WORK PERFORMED AND A REASONABLE HOURLY FEE FOR THE**
19 **WORK.**

20 **5-1107.**

21 **A PERSON MAY NOT FILE A PETITION FOR A TRANSFER OF STRUCTURED**
22 **SETTLEMENT PAYMENT RIGHTS UNDER THIS SUBTITLE UNLESS THE PERSON:**

23 **(1) IS REGISTERED WITH THE ATTORNEY GENERAL AS A**
24 **STRUCTURED SETTLEMENT TRANSFEREE; OR**

25 **(2) HAS A PENDING APPLICATION FOR REGISTRATION, AND THE**
26 **ATTORNEY GENERAL HAS NOT ACTED ON THE APPLICATION WITHIN THE TIME**
27 **SPECIFIED IN THIS SUBTITLE.**

28 **5-1108.**

29 **(A) (1) TO APPLY FOR REGISTRATION AS A STRUCTURED SETTLEMENT**
30 **TRANSFEREE, AN APPLICANT SHALL:**

31 **(i) SUBMIT TO THE ATTORNEY GENERAL UNDER OATH AN**
32 **APPLICATION ON THE FORM PROVIDED BY THE ATTORNEY GENERAL; AND**

1 **(II) PAY A REGISTRATION FEE OF \$2,000, OF WHICH \$1,500**
2 **SHALL BE REFUNDABLE IN THE EVENT THAT THE ATTORNEY GENERAL DENIES THE**
3 **APPLICATION FOR REGISTRATION.**

4 **(2) ALL FEES COLLECTED UNDER THIS SUBSECTION SHALL BE USED**
5 **TO ADMINISTER THE REGISTRATION PROGRAM.**

6 **(3) IN THE CASE OF AN APPLICANT THAT, AT THE TIME OF ITS**
7 **APPLICATION, IS NOT REGISTERED WITH THE ATTORNEY GENERAL AS A**
8 **STRUCTURED SETTLEMENT TRANSFEREE, THE ATTORNEY GENERAL SHALL GRANT**
9 **OR DENY AN APPLICATION FOR REGISTRATION WITHIN 90 DAYS OF SUBMISSION OF**
10 **THE COMPLETE APPLICATION AND ALL APPLICABLE FEES.**

11 **(B) (1) THE ATTORNEY GENERAL MAY REQUIRE A STRUCTURED**
12 **SETTLEMENT TRANSFEREE TO REAPPLY FOR REGISTRATION ON AN ANNUAL BASIS**
13 **OR LESS FREQUENTLY, AS THE ATTORNEY GENERAL DETERMINES.**

14 **(2) IN THE CASE OF A REGISTRANT APPLYING FOR RENEWAL OF ITS**
15 **REGISTRATION, THE ATTORNEY GENERAL SHALL GRANT OR DENY AN APPLICATION**
16 **FOR REGISTRATION WITHIN 30 DAYS OF SUBMISSION OF THE COMPLETE**
17 **APPLICATION AND ALL APPLICABLE FEES.**

18 **(C) IF THE ATTORNEY GENERAL DETERMINES THAT ADDITIONAL**
19 **INFORMATION FROM AN APPLICANT IS NEEDED, THE ATTORNEY GENERAL MAY**
20 **EXTEND UNILATERALLY THE DEADLINE FOR GRANTING OR DENYING THE**
21 **APPLICATION FOR REGISTRATION BY AN ADDITIONAL 60 DAYS.**

22 **(D) THE APPLICATION FOR REGISTRATION AS A STRUCTURED SETTLEMENT**
23 **TRANSFEREE SHALL REQUIRE AN APPLICANT TO PROVIDE:**

24 **(1) THE APPLICANT'S FULL NAME;**

25 **(2) THE ADDRESS OF THE APPLICANT'S PRINCIPAL OFFICE OR PLACE**
26 **OF BUSINESS;**

27 **(3) IN THE CASE OF AN APPLICANT WHO IS AN INDIVIDUAL, THE**
28 **APPLICANT'S SOCIAL SECURITY NUMBER;**

29 **(4) IN THE CASE OF AN APPLICANT OTHER THAN AN INDIVIDUAL:**

30 **(i) THE APPLICANT'S FEDERAL EMPLOYER IDENTIFICATION**
31 **NUMBER; AND**

32 **(ii) THE NAME AND BUSINESS ADDRESS OF:**

1 **1. EACH OFFICER, DIRECTOR, GENERAL PARTNER,**
2 **MEMBER, AND MANAGER, IF A LIMITED LIABILITY COMPANY, OF THE APPLICANT;**

3 **2. IF THE APPLICANT IS NOT SUBJECT TO REPORTING**
4 **REQUIREMENTS UNDER THE SECURITIES EXCHANGE ACT OF 1934, EACH PERSON**
5 **WHO OWNS 5% OR MORE OF THE APPLICANT; AND**

6 **3. EACH OFFICER, DIRECTOR, MEMBER, AND PRINCIPAL**
7 **OF THE APPLICANT;**

8 **(5) ANY TRADE NAME THROUGH WHICH THE APPLICANT INTENDS TO**
9 **DO BUSINESS AS A TRANSFEREE IN THE STATE, PROVIDED THAT A TRANSFEREE MAY**
10 **MAINTAIN REGISTRATION OF NO MORE THAN FOUR TRADE NAMES; AND**

11 **(6) ANY OTHER INFORMATION THAT THE ATTORNEY GENERAL**
12 **REQUIRES.**

13 **(E) IF THE ATTORNEY GENERAL DENIES AN APPLICATION FOR**
14 **REGISTRATION, THE ATTORNEY GENERAL SHALL SPECIFY IN WRITING THE REASON**
15 **FOR THE DENIAL.**

16 **5-1109.**

17 **(A) ON ACCEPTANCE BY THE ATTORNEY GENERAL OF A TRANSFEREE'S**
18 **APPLICATION FOR REGISTRATION AS A STRUCTURED SETTLEMENT TRANSFEREE,**
19 **THE TRANSFEREE SHALL PROMPTLY:**

20 **(1) FILE WITH THE ATTORNEY GENERAL AN IRREVOCABLE LETTER**
21 **OF CREDIT IN THE AMOUNT OF \$100,000 ISSUED BY A FINANCIAL INSTITUTION;**

22 **(2) DEPOSIT WITH THE ATTORNEY GENERAL CASH IN THE AMOUNT**
23 **OF \$100,000; OR**

24 **(3) FILE WITH THE ATTORNEY GENERAL A BOND THAT IS:**

25 **(I) IN FAVOR OF THE STATE;**

26 **(II) IN THE PENAL SUM OF \$100,000; AND**

27 **(III) EXECUTED BY AN AUTHORIZED SURETY INSURER.**

1 **(B) A BOND SHALL REMAIN IN FORCE UNTIL THE SURETY INSURER IS**
2 **RELEASED FROM LIABILITY BY THE ATTORNEY GENERAL OR UNTIL THE BOND IS**
3 **CANCELED BY THE SURETY INSURER.**

4 **(C) THE TOTAL LIABILITY OF THE SURETY INSURER UNDER A BOND MAY**
5 **NOT EXCEED THE PENAL SUM OF THE BOND.**

6 **(D) (1) (I) THE SURETY INSURER MAY CANCEL A BOND AFTER FILING**
7 **A WRITTEN NOTICE WITH THE ATTORNEY GENERAL AT LEAST 30 DAYS BEFORE THE**
8 **EFFECTIVE DATE OF THE CANCELLATION.**

9 **(II) A CANCELLATION UNDER THIS SUBSECTION DOES NOT**
10 **AFFECT ANY LIABILITY THAT ACCRUED BEFORE THE CANCELLATION.**

11 **(2) AFTER NOTIFICATION OF THE CANCELLATION OF THE BOND, THE**
12 **TRANSFeree SHALL ACT PROMPTLY TO REPLACE THE BOND.**

13 **(3) IF THE TRANSFeree FAILS TO ACT PROMPTLY TO REPLACE THE**
14 **BOND, THE ATTORNEY GENERAL MAY DENY, SUSPEND, OR REVOKE THE**
15 **REGISTRATION OF THE TRANSFeree UNTIL THE REQUIRED BOND IS FILED.**

16 **(E) IF, AT ANY TIME, A STRUCTURED SETTLEMENT TRANSFeree FAILS TO**
17 **COMPLY WITH SUBSECTION (A) OF THIS SECTION, THE ATTORNEY GENERAL MAY**
18 **DENY, SUSPEND, OR REVOKE THE REGISTRATION OF THE TRANSFeree UNTIL THE**
19 **TRANSFeree COMPLIES WITH SUBSECTION (A) OF THIS SECTION.**

20 **5-1110.**

21 **(A) THE ATTORNEY GENERAL MAY SUSPEND OR REVOKE THE**
22 **REGISTRATION OF A STRUCTURED SETTLEMENT TRANSFeree, OR DENY AN**
23 **APPLICATION FOR REGISTRATION, IF THE ATTORNEY GENERAL FINDS THAT THE**
24 **TRANSFeree OR ANY OF ITS EMPLOYEES, AFFILIATES, OR AGENTS HAS:**

25 **(1) DIRECTLY OR INDIRECTLY PAID ANY FEE OR CHARGE TO ANY**
26 **PERSON AS AN INDUCEMENT TO REFER A PAYEE TO THE TRANSFeree IN**
27 **CONNECTION WITH A TRANSFER SUBJECT TO THIS SUBTITLE;**

28 **(2) DIRECTLY OR INDIRECTLY OFFERED OR PROVIDED ANY GIFT TO**
29 **A PAYEE OR A MEMBER OF A PAYEE'S FAMILY IN CONNECTION WITH A TRANSFER**
30 **SUBJECT TO THIS SUBTITLE;**

31 **(3) DIRECTLY OR INDIRECTLY OFFERED ANY LOAN, EXTENSION OF**
32 **CREDIT, OR ADVANCE TO A PAYEE OR A MEMBER OF A PAYEE'S FAMILY AS AN**
33 **INDUCEMENT TO TRANSFER STRUCTURED SETTLEMENT PAYMENT RIGHTS;**

1 **(4) MADE ANY REFERRAL OF A PAYEE FOR INDEPENDENT**
2 **PROFESSIONAL ADVICE CONCERNING A PROPOSED TRANSFER SUBJECT TO THIS**
3 **SUBTITLE OTHER THAN A REFERRAL TO A LOCAL OR STATE BAR ASSOCIATION OR**
4 **NOT-FOR-PROFIT LAWYER REFERRAL SERVICE UNAFFILIATED WITH ANY**
5 **STRUCTURED SETTLEMENT TRANSFEREE THAT MAKES REFERRALS TO ATTORNEYS,**
6 **CERTIFIED PUBLIC ACCOUNTANTS, OR LICENSED FINANCIAL CONSULTANTS;**

7 **(5) COMMUNICATED WITH A PAYEE OR A PERSON RELATED TO A**
8 **PAYEE WITH OBSCENE OR GROSSLY ABUSIVE LANGUAGE, WITH THE FREQUENCY, AT**
9 **UNUSUAL HOURS, OR IN ANY OTHER MANNER AS REASONABLY CAN BE EXPECTED TO**
10 **ABUSE OR HARASS THE PAYEE IN CONNECTION WITH A TRANSFER SUBJECT TO THIS**
11 **SUBTITLE;**

12 **(6) ENGAGED IN ANY UNFAIR OR DECEPTIVE TRADE PRACTICE,**
13 **UNDER § 13-301 OF THE COMMERCIAL LAW ARTICLE;**

14 **(7) CONDUCTED BUSINESS IN THE STATE RELATED TO THE**
15 **TRANSFER OF STRUCTURED SETTLEMENT PAYMENT RIGHTS IN ANY NAME OTHER**
16 **THAN THE NAME OR TRADE NAME REGISTERED WITH THE ATTORNEY GENERAL;**

17 **(8) WITH RESPECT TO A TRANSFEREE, ITS AFFILIATES, DIRECTORS,**
18 **MEMBERS, GENERAL PARTNERS, OFFICERS, OR EXECUTIVE, MANAGERIAL,**
19 **PROFESSIONAL, OR SALES AND MARKETING EMPLOYEES, BEEN CONVICTED OF A**
20 **CRIME INVOLVING DISHONESTY, DECEPTION, OR MORAL TURPITUDE;**

21 **(9) BEEN FOUND BY A COURT OF COMPETENT JURISDICTION OR A**
22 **GOVERNMENT AGENCY TO HAVE COMMITTED FRAUD, ENGAGED IN UNFAIR TRADE**
23 **PRACTICES, OR COMMITTED ANY OTHER CIVIL WRONG OR REGULATORY VIOLATION**
24 **INVOLVING DISHONESTY OR DECEPTION; OR**

25 **(10) OTHERWISE FAILED TO COMPLY WITH THE PROVISIONS OF THIS**
26 **SUBTITLE IN CONNECTION WITH A TRANSFER SUBJECT TO THIS SUBTITLE.**

27 **(B) IN ADDITION TO, OR INSTEAD OF, DENYING AN APPLICATION FOR**
28 **REGISTRATION, OR SUSPENDING OR REVOKING THE REGISTRATION OF ANY**
29 **REGISTRANT, THE ATTORNEY GENERAL MAY IMPOSE A CIVIL PENALTY FOR EACH**
30 **VIOLATION OF THIS SUBTITLE IN AN AMOUNT NOT EXCEEDING:**

31 **(1) \$1,000 FOR A FIRST VIOLATION; AND**

32 **(2) \$5,000 FOR EACH SUBSEQUENT VIOLATION.**

1 (C) IN DETERMINING WHETHER TO DENY AN APPLICATION FOR
2 REGISTRATION OR SUSPEND OR REVOKE THE REGISTRATION OF A REGISTRANT, OR
3 THE AMOUNT OF ANY CIVIL PENALTY TO BE IMPOSED, THE ATTORNEY GENERAL
4 SHALL CONSIDER:

5 (1) THE SERIOUSNESS OF THE VIOLATION;

6 (2) THE GOOD FAITH OF THE TRANSFEREE;

7 (3) ANY HISTORY OF PREVIOUS VIOLATIONS; AND

8 (4) ANY OTHER FACTOR RELEVANT TO THE DETERMINATION.

9 (D) (1) THE ATTORNEY GENERAL SHALL PROVIDE TO A REGISTRANT
10 NOTICE AND AN OPPORTUNITY TO REQUEST A HEARING UNDER TITLE 10, SUBTITLE
11 2 OF THE STATE GOVERNMENT ARTICLE TO CONTEST A PROPOSED DISCIPLINARY
12 ACTION UNDER THIS SECTION, EXCEPT THAT THE ATTORNEY GENERAL MAY
13 DELEGATE THE AUTHORITY TO CONDUCT A HEARING TO A DEPUTY OR ASSISTANT
14 ATTORNEY GENERAL.

15 (2) ANY PARTY AGGRIEVED BY A DECISION AND ORDER OF THE
16 ATTORNEY GENERAL UNDER THIS SECTION AND § 5-1108 OF THIS SUBTITLE MAY
17 PETITION FOR JUDICIAL REVIEW AS PROVIDED UNDER §§ 10-222 AND 10-223 OF
18 THE STATE GOVERNMENT ARTICLE.

19 5-1111.

20 IF, IN CONNECTION WITH A TRANSFER OF STRUCTURED SETTLEMENT
21 PAYMENT RIGHTS, A STRUCTURED SETTLEMENT OBLIGOR IMPOSES TOTAL FEES
22 AND CHARGES IN EXCESS OF \$350, THE STRUCTURED SETTLEMENT OBLIGOR SHALL
23 SUBMIT A STATEMENT TO THE PAYEE AND THE TRANSFEREE IDENTIFYING EACH
24 PERSON WHO PERFORMED WORK IN CONNECTION WITH THE TRANSFER,
25 SPECIFYING TO THE TENTH OF AN HOUR THE AMOUNT OF WORK THE PERSON
26 PERFORMED, AND SPECIFYING A REASONABLE HOURLY FEE FOR THE PERSON'S
27 WORK.

28 ~~5-1106.~~

29 ~~THE ATTORNEY GENERAL MAY ADOPT AND ENFORCE REGULATIONS TO~~
30 ~~CARRY OUT THE PURPOSES OF THIS SUBTITLE, INCLUDING REGULATIONS~~
31 ~~ESTABLISHING A DISCOUNT RATE APPLICABLE TO TRANSFERS OF STRUCTURED~~
32 ~~SETTLEMENT PAYMENTS ABOVE WHICH A PROPOSED TRANSFER SHALL BE~~
33 ~~PRESUMED TO BE NOT IN THE BEST INTEREST OF A PAYEE.~~

1 5-1112.

2 THE ATTORNEY GENERAL MAY ADOPT REGULATIONS TO CARRY OUT THIS
3 SUBTITLE.

4 SECTION ~~2.~~ 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 2016.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.