

WEST'S ANNOTATED CODE OF MARYLAND
COURTS AND JUDICIAL PROCEEDINGS
TITLE 5. LIMITATIONS, PROHIBITED ACTIONS, AND IMMUNITIES
SUBTITLE 11--STRUCTURED SETTLEMENTS

Current through 2001 session

§ 5-1101. Definitions

- (a) In this subtitle the following words have the meanings indicated.
- (b) "Discounted present value" means the fair present value of future payments, as determined by discounting payments to the present using the most recently published applicable federal rate for determining the present value of an annuity, as issued by the United States Internal Revenue Service.
- (c) "Independent professional advice" means advice of an attorney, certified public accountant, actuary, or other licensed professional adviser:
- (1) Who is engaged by a payee to render advice concerning the legal, tax, and financial implications of a transfer of **structured settlement** payment rights;
 - (2) Who is not affiliated with or compensated by the transferee of the transfer; and
 - (3) Whose compensation is not affected by whether a transfer occurs.
- (d) "Interested parties" means the payee, each beneficiary designated under the annuity contract to receive payments following the payee's death, the annuity issuer, the **structured settlement** obligor, and any other party that has continuing rights or obligations under a **structured settlement**.
- (e) "Payee" means an individual who receives damage payments that are not subject to income taxation under a **structured settlement** and proposes to make a transfer of payment rights.
- (f) "Responsible administrative authority" means a government authority vested with exclusive jurisdiction over the settled claim resolved by a **structured settlement**.
- (g)(1) "**Structured settlement**" means an arrangement for periodic payment of damages for personal injury established by a settlement or judgment in resolution of a tort claim.
- (2) "**Structured settlement**" does not include an arrangement for periodic payment of damages for personal injury established by a judgment by confession.
- (h) "**Structured settlement** agreement" means an agreement, judgment, stipulation, or release embodying the terms of a **structured settlement**.
- (i) "**Structured settlement** obligor" means a party who has the continuing periodic payment obligation to the payee under a **structured settlement** agreement or a qualified assignment agreement.
- (j) "**Structured settlement** payment rights" means the rights to receive periodic payments, including lump-sum payments under a **structured settlement**,

whether from the settlement obligor or the annuity issuer, if:

(1) An interested party is domiciled in this State;

(2) The **structured settlement** agreement was approved by a court or responsible administrative authority in this State; or

(3) The settled claim was pending before a court of this State when the parties entered into the **structured settlement** agreement.

(k) "Terms of the **structured settlement**" includes the terms of the **structured settlement** agreement, the annuity contract, a qualified assignment, and an order or approval of a court or responsible administrative authority authorizing or approving a **structured settlement**.

(l) "Transfer" means a sale, assignment, pledge, hypothecation, or other form of alienation or encumbrance made by a payee for consideration.

(m) "Transfer agreement" means the agreement providing for the transfer of **structured settlement** payment rights from a payee to a transferee.

CREDIT(S)

2002 Main Volume

Acts 2000, c. 366, § 1, eff. Oct. 1, 2000.

<General Materials (GM) - References, Annotations, or Tables>

HISTORICAL AND STATUTORY NOTES

2000 Legislation

Acts 2000, c. 366, § 2, provides:

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

MD Code, Courts and Judicial Proceedings, § 5-1101

MD CTS & JUD PRO § 5-1101

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§ 5-1102. Direct or indirect transfers

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

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

- (1) The transfer is necessary, reasonable, or appropriate;
- (2) The transfer is not expected to subject the payee, the payee's dependents, or both, to undue or unreasonable financial hardship in the future;
- (3) The payee received independent professional advice regarding the legal, tax, and financial implications of the transfer; and
- (4) The transferee disclosed to the payee the discounted present value.

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LIBRARY REFERENCES

Key Numbers

Assignments +10.

Westlaw Key Number Search: 38k10.

Encyclopedias

C.J.S. Assignments § § 19 to 21.

MD Code, Courts and Judicial Proceedings, § 5-1102

MD CTS & JUD PRO § 5-1102

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§ 5-1103. Circuit courts; nonexclusive jurisdiction

(a) The circuit court that has jurisdiction over an interested party or the circuit court for the county in which the original claim occurred shall have nonexclusive jurisdiction over an application for a transfer of **structured settlement** payment rights under § 5-1102 of this subtitle.

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

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

(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, in person or by counsel, by submitting written comments to the court or by participating in the hearing.

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LIBRARY REFERENCES

Key Numbers

Assignments +10.

Westlaw Key Number Search: 38k10.

Encyclopedias

C.J.S. Assignments § § 19 to 21.

MD Code, Courts and Judicial Proceedings, § 5-1103

MD CTS & JUD PRO § 5-1103

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§ 5-1104. Liability for payment to transferee

If a transfer of structure settlement payment rights has been authorized under this subtitle, neither the annuity issuer nor the **structured settlement** obligor shall have any liability to the payee or to any other party for any payment made to the transferee in accordance with the authorization.

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<General Materials (GM) - References, Annotations, or Tables>

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LIBRARY REFERENCES

Key Numbers

Assignments +110.

Westlaw Key Number Search: 38k110.

Encyclopedias

C.J.S. Assignments § 96.

MD Code, Courts and Judicial Proceedings, § 5-1104

MD CTS & JUD PRO § 5-1104

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§ 5-1105. Application of subtitle; waiver

(a) The provisions of this subtitle may not be waived.

(b) Nothing contained in this subtitle may be construed to authorize a transfer of **structured settlement** payment rights in contravention of applicable law or to give effect to a transfer of **structured settlement** payment rights that is invalid under applicable law.

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LIBRARY REFERENCES

Key Numbers

Assignments +3.

Westlaw Key Number Search: 38k3.

Encyclopedias

C.J.S. Assignments § 8.

MD Code, Courts and Judicial Proceedings, § 5-1105

MD CTS & JUD PRO § 5-1105

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