

§ 1-543.12. Structured settlement payment rights.

No direct or indirect transfer of structured settlement payment rights shall be effective, and no structured settlement obligor or annuity issuer shall be required to make any payment directly or indirectly to any transferee of structured settlement payment rights unless the transfer has been authorized in advance in a final order of a court of competent jurisdiction or a responsible administrative authority based on express findings by such court or responsible administrative authority that:

- (1) The transfer complies with the requirements of this Article [of] law;
- (2) Not less than 10 days prior to the date on which the payee first incurred any obligation with respect to the transfer, the transferee has provided to the payee a disclosure statement in bold type, no smaller than 14 point setting forth:
 - a. The amounts and due dates of the structured settlement payments to be transferred;
 - b. The aggregate amount of such payments;
 - c. The discounted present value of such payments;
 - d. The gross amount payable to the payee in exchange for such payments;
 - e. An itemized listing of all brokers' commissions, service charges, application fees, processing fees, closing costs, filing fees, administrative fees, legal fees, notary fees and other commissions, fees, costs, expenses, and charges payable by the payee or deductible from the gross amount otherwise payable to the payee;
 - f. The net amount payable to the payee after deduction of all commissions, fees, costs, expenses, and charges described in sub-subdivision e. of this subdivision;
 - g. The quotient (expressed as a percentage) obtained by dividing the net payment amount by the discounted present value of the payments;
 - h. The discount rate used by the transferee to determine the net amount payable to the payee for the structured settlement payments to be transferred; and
 - i. The amount of any penalty and the aggregate amount of any liquidated damages (inclusive of penalties) payable by the payee in the event of any breach of the transfer agreement by the payee;
- (3) The transfer is in the best interest of the payee;
- (4) The payee has received independent professional advice regarding the legal, tax, and financial implications of the transfer;
- (5) The transferee has given written notice of the transferee's name, address, and taxpayer identification number to the annuity issuer and the structured settlement obligor and has filed a copy of such notice with the court or responsible administrative authority;
- (6) The discount rate used in determining the net amount payable to the payee, as provided in subdivision (2) of this section, does not exceed an annual percentage rate of prime plus five percentage points calculated as if the net amount payable to the payee, as provided in sub-subdivision (2)f. of this section, was the principal of a consumer loan made by the transferee to the payee, and if the structured settlement payments to be transferred to the transferee were the payee's payments of principal plus interest on such loan. For purposes of this subdivision, the prime rate shall be as reported by the

Federal Reserve Statistical Release H.15 on the first Monday of the month in which the transfer agreement is signed by both the payee and the transferee, except when the transfer agreement is signed prior to the first Monday of that month then the prime rate shall be as reported by the Federal Reserve Statistical Release H.15 on the first Monday of the preceding month;

- (7) Any brokers' commissions, service charges, application fees, processing fees, closing costs, filing fees, administrative fees, notary fees and other commissions, fees, costs, expenses, and charges payable by the payee or deductible from the gross amount otherwise payable to the payee do not exceed two percent (2%) of the net amount payable to the payee;
- (8) The transfer of structured settlement payment rights is fair and reasonable; and
- (9) Notwithstanding a provision of the structured settlement agreement prohibiting an assignment by the payee, the court may order a transfer of periodic payment rights provided that the court finds that the provisions of this Article are satisfied.

If the court or responsible administrative authority authorizes the transfer pursuant to this section, the court or responsible administrative authority shall order the structured settlement obligor to execute an acknowledgment of assignment letter on behalf of the transferee for the amount of the structured settlement payment rights to be transferred; provided, however, structured settlement payment rights arising from a claim pursuant to Chapter 97 shall not be authorized. (1999-367, s. 1; 1999-456, s. 67.)