

Senate Bill 174

By: Senators Meyer von Bremen of the 12th and Tanksley of the 32nd

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

1 To amend Article 4 of Chapter 12 of Title 51 of the Official Code of Georgia Annotated,
2 relating to damages in tort actions, so as to change provisions relating to prerequisites for
3 transfer of structured settlement payment rights; to provide for court filings; to provide for
4 hearings relative to transfers; to change provisions relating to notification of cancellation
5 rights; to provide for related matters; to repeal conflicting laws; and for other purposes.

6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

7 **SECTION 1.**

8 Article 4 of Chapter 12 of Title 51 of the Official Code of Georgia Annotated, relating to
9 damages in tort actions, is amended by striking Code Section 51-12-71, relating to
10 prerequisites for transfer of structured settlement payment rights, and inserting in lieu thereof
11 the following:

12 "51-12-71.

13 (a) No direct or indirect transfer of structured settlement payment rights shall be effective
14 and no structured settlement obligor or annuity issuer shall be required to make any
15 payment directly or indirectly to any transferee of structured settlement payment rights
16 unless the transfer has been approved in advance in a final court order by a court of
17 competent jurisdiction or order of any government authority vested by law with exclusive
18 jurisdiction over the settled claim resolved by the structured settlement based on express
19 findings by the court or government authority that:

20 (1) The transfer complies with the requirements of this article and ~~will~~ does not
21 contravene ~~other applicable law~~ any federal or state statute or the order of any court or
22 any responsible administrative authority;

23 (2) The transfer is in the best interest of the payee taking into account the welfare and
24 support of the payee's dependents;

25 ~~(2)(3)~~ (3) Not less than ten days prior to the date on which the transfer agreement is
26 executed in writing, the transferee has provided to the payee an informational pamphlet
27 relating to transfers of structured settlements as provided for in subsection (b) of Code

1 Section 51-12-73, when available, and a separate disclosure statement in bold type, no
2 smaller than 14 points, setting forth:

3 (A) The amounts and due dates of the structured settlement payments to be transferred;

4 (B) The aggregate amount of such payments;

5 (C) The discounted present value of such payments, together with the discount rate
6 used in determining such discounted present value;

7 (D) The gross amount payable to the payee in exchange for such payments;

8 (E) An itemized listing of all brokers' commissions, service charges, application fees,
9 processing fees, closing costs, filing fees, administrative fees, legal fees, notary fees and
10 other commissions, fees, costs, expenses, and charges payable by the payee or
11 deductible from the gross amount otherwise payable to the payee;

12 (F) The net amount payable to the payee after deduction of all commissions, fees,
13 costs, expenses, and charges described in subparagraph (E) of this paragraph;

14 (G) The quotient (expressed as a percentage) obtained by dividing the net payment
15 amount by the discounted present value of the payments; and

16 (H) The amount of any penalty and the aggregate amount of any liquidated damages
17 (inclusive of penalties) payable by the payee in the event of any breach of the transfer
18 agreement by the payee; and

19 ~~(3) Written notice at least two business days prior to the effective execution of the~~
20 ~~transfer agreement has been provided by the transferee to the annuity issuer and the~~
21 ~~structured settlement obligor by certified mail or statutory overnight delivery, postage~~
22 ~~prepaid; and~~

23 (4) The transferee has given written notice of the transferee's name, address, and
24 taxpayer identification number to the annuity issuer and the structured settlement obligor
25 and has filed a copy of the notice with the court.

26 (b) At least 20 days before the hearing which is scheduled on an application for
27 authorizing a transfer of structured settlement payment rights under this Code section, the
28 transferee shall file with the court and deliver to all interested parties a notice of the
29 proposed transfer and the application for its authorization. The notice shall include the
30 following:

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

32 (2) A copy of the transfer agreement;

33 (3) A copy of the disclosure statement required under paragraph (3) of subsection (a) of
34 this Code section;

35 (4) Notification that an interested party may support, oppose, or otherwise respond to the
36 transferee's application, either in person or through counsel, by participating in the
37 hearing or by submitting written comments to the court; and

1 (5) A rule nisi containing notification of the time and place of the hearing and
 2 notification of the manner in and the time by which any written response to the
 3 application must be filed in order to be considered by the court. A written response shall
 4 be filed within 15 days after service of the transferee's notice.

5 (c) Delivery of notice as required by subsection (b) of this Code section may be made as
 6 provided in Code Section 9-11-4 or by registered or certified mail, return receipt requested.
 7 Notice by registered or certified mail is effective upon the date of delivery as shown on the
 8 return receipt. If notice by registered or certified mail is refused or returned undelivered,
 9 notice shall be delivered as provided in Code Section 9-11-4.

10 (d) The venue for any application brought under this Code section shall be in the county
 11 in which any transferee or transferor resides or in any county in which any of the
 12 transferees or transferors have consented to venue."

13 SECTION 2.

14 Said article is further amended by striking Code Section 51-12-72, relating to required
 15 transfer agreements, and inserting in lieu thereof the following:

16 "51-12-72.

17 (a) Any transfer agreement of structured settlement payment rights must, in addition to the
 18 other requirements of this article, be executed in writing and filed as provided in Code
 19 Section 51-12-71. The transfer agreement shall not be so executed until after the expiration
 20 of the ten-day period provided for in paragraph ~~(2)~~ (3) of Code Section 51-12-71.

21 (b) No payee shall incur any obligation of any type with respect to a proposed transfer of
 22 structured settlement payment rights prior to the execution in writing of the transfer
 23 agreement.

24 (c) Any payee who executes in writing a transfer agreement shall have the right to rescind
 25 the transfer at any time within the next 21 days following the written execution of the
 26 transfer agreement or at the hearing provided for in subsection (b) of Code Section
 27 51-12-71, whichever event occurs last. The transferee shall furnish to the payee at the time
 28 of execution of the transfer agreement a notice to the payee allowing the payee 21 days to
 29 cancel the transfer. This right to cancel shall not limit or otherwise affect the payee's right
 30 to cancel pursuant to any other provision of applicable law. The notice shall serve as the
 31 cover sheet to the transfer documents. It shall be on a separate sheet of paper with no other
 32 written or pictorial material, in at least ten-point bold type, double spaced, and shall read
 33 substantially as follows:

34 'NOTICE OF CANCELLATION RIGHTS:

35 Please read this form completely and carefully. It contains valuable cancellation rights.

1 You may cancel this transaction at any time prior to 5:00 P.M. of the twenty-first day
 2 following receipt of this notice or at the hearing on the application for authorization of
 3 a transfer of structured settlement payment rights, whichever event occurs last.

4 This cancellation right cannot be waived in any manner.

5 To cancel, sign this form, and mail or deliver it to the address below by 5:00 P.M. of
 6 _____ (the twenty-first day following the transaction). It is best to mail it by
 7 certified mail or statutory overnight delivery, return receipt requested, and to keep a
 8 photocopy of the signed form and your post office receipt.

9 Address to which cancellation is to be returned:
 10 _____

11 I (we) hereby cancel this transaction.

12 _____

13 Payee's Signature

14 Date:

15 _____."

16 **SECTION 3.**

17 All laws and parts of laws in conflict with this Act are repealed.