

**CHAPTER 62--H.F.No. 3768**

*An act relating to civil law; amending process for and approval of transfer of structured settlement payment rights; requiring structured settlement purchase companies to register and provide a surety bond; requiring disclosures to payees; prohibiting certain practices; authorizing enforcement of prohibited practices and judicial sanctions; requiring judicial consideration of best interest factors; authorizing appointment of attorney evaluator; appropriating money; amending Minnesota Statutes 2020, section 549.30, subdivisions 1, 5, 6, 7, 9, 11, 12, 13, 15, 17, 19, by adding subdivisions; proposing coding for new law in Minnesota Statutes, chapter 549; repealing Minnesota Statutes 2020, sections 549.30, subdivision 3; 549.31; 549.32; 549.33; 549.34.*

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2020, section 549.30, subdivision 1, is amended to read:

Subdivision 1. **Application.** For purposes of sections 549.30 to ~~549.34~~ 549.41, the terms defined in this section have the meanings given them.

Sec. 2. Minnesota Statutes 2020, section 549.30, is amended by adding a subdivision to read:

Subd. 3a. **Assignee.** "Assignee" means a person acquiring or proposing to acquire structured settlement payments from a structured settlement purchase company or transferee after, or concurrently with, the transfer of the structured settlement payment rights by the payee to the structured settlement purchase company or transferee.

Sec. 3. Minnesota Statutes 2020, section 549.30, is amended by adding a subdivision to read:

Subd. 3b. **Secretary.** "Secretary" means the secretary of state.

Sec. 4. Minnesota Statutes 2020, section 549.30, subdivision 5, is amended to read:

Subd. 5. **Discounted present value.** "Discounted present value" means, ~~with respect to a proposed transfer of structured settlement payment rights,~~ the fair present value of future payments, as determined by discounting the 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.

Sec. 5. Minnesota Statutes 2020, section 549.30, is amended by adding a subdivision to read:

Subd. 5a. **Effective annual interest rate.** "Effective annual interest rate" means the effective rate of interest per year the payee will be paying the transferee based on the net advance amount that a payee will receive from the transferee and the amounts and timing of the structured settlement payments that the payee is transferring to the transferee.

Sec. 6. Minnesota Statutes 2020, section 549.30, is amended by adding a subdivision to read:

**Subd. 5b. Gross advance amount.** "Gross advance amount" means the sum payable to the payee or for the payee's account as consideration for a transfer of structured settlement payment rights before any reductions for transfer expenses or other deductions to be made from such consideration.

Sec. 7. Minnesota Statutes 2020, section 549.30, subdivision 6, is amended to read:

**Subd. 6. Independent professional advice.** "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 in any manner affiliated with or compensated by the transferee of the transfer; and (3) whose compensation for providing the advice is not affected by whether a transfer occurs or does not occur.

Sec. 8. Minnesota Statutes 2020, section 549.30, subdivision 7, is amended to read:

**Subd. 7. Interested parties.** "Interested parties" means the payee, a beneficiary irrevocably designated under the annuity contract to receive payments following the payee's death or, if the designated beneficiary is a minor, the designated beneficiary's parent or guardian, the annuity issuer, the structured settlement obligor, and any other party to the structured settlement that has continuing rights or obligations to receive or make payments under the structured settlement.

Sec. 9. Minnesota Statutes 2020, section 549.30, is amended by adding a subdivision to read:

**Subd. 7a. Net advance amount.** "Net advance amount" means the gross advance amount, less the aggregate amount of the actual and estimated transfer expenses.

Sec. 10. Minnesota Statutes 2020, section 549.30, is amended by adding a subdivision to read:

**Subd. 8a. Periodic payments.** "Periodic payments" includes both recurring payments and scheduled future lump-sum payments.

Sec. 11. Minnesota Statutes 2020, section 549.30, is amended by adding a subdivision to read:

**Subd. 8b. Prospective payee.** "Prospective payee" means an individual who is receiving tax-free payments under a structured settlement pursuant to United States Code, title 26, section 130, and who has been personally and individually solicited by and has not yet proposed to transfer all or a portion of the structured settlement payment rights to a structured settlement purchase company.

Sec. 12. Minnesota Statutes 2020, section 549.30, subdivision 9, is amended to read:

**Subd. 9. Qualified assignment agreement.** "Qualified assignment agreement" means an agreement providing for a qualified assignment as provided by the United States Internal Revenue Code, title 26, section 130, as amended through December 31, 1998.

Sec. 13. Minnesota Statutes 2020, section 549.30, subdivision 11, is amended to read:

**Subd. 11. Settled claim.** "Settled claim" means the original tort claim or workers' compensation claim resolved by a structured settlement.

Sec. 14. Minnesota Statutes 2020, section 549.30, subdivision 12, is amended to read:

Subd. 12. **Structured settlement.** "Structured settlement" means an arrangement for periodic payment of damages for personal injuries established by settlement or judgment in resolution of a tort claim ~~or for periodic payments in settlement of a workers' compensation claim.~~

Sec. 15. Minnesota Statutes 2020, section 549.30, subdivision 13, is amended to read:

Subd. 13. **Structured settlement agreement.** "Structured settlement agreement" means the agreement, judgment, stipulation, or release embodying the terms of a structured settlement, ~~including the rights of the payee to receive periodic payments.~~

Sec. 16. Minnesota Statutes 2020, section 549.30, subdivision 15, is amended to read:

Subd. 15. **Structured settlement payment rights.** "Structured settlement payment rights" means rights to receive periodic payments, ~~including lump-sum payments,~~ under a structured settlement, whether from the settlement obligor or the annuity issuer, where: (1) the payee or any other interested party is domiciled in the state; ~~or (2) the structured settlement agreement was approved by a court or responsible administrative authority in the state; or (3) the settled claim was pending before the courts of this state when the parties entered into the structured settlement agreement.~~

Sec. 17. Minnesota Statutes 2020, section 549.30, is amended by adding a subdivision to read:

Subd. 15a. **Structured settlement purchase company.** "Structured settlement purchase company" means a person that acts as a transferee in the state and who is registered with the secretary pursuant to section 549.35.

Sec. 18. Minnesota Statutes 2020, section 549.30, is amended by adding a subdivision to read:

Subd. 15b. **Structured settlement transfer proceeding.** "Structured settlement transfer proceeding" means a court proceeding initiated by the filing of an application by a structured settlement purchase company seeking court approval of a transfer in accordance with sections 549.30 to 549.41.

Sec. 19. Minnesota Statutes 2020, section 549.30, subdivision 17, is amended to read:

Subd. 17. **Transfer.** "Transfer" means a sale, assignment, pledge, hypothecation, or other form of alienation or encumbrance made by a payee for consideration. A transfer does not include the creation or perfection of a security interest in structured settlement payment rights under a blanket security agreement entered into with an insured depository institution, in the absence of any action to redirect the structured settlement payments to such insured depository institution, or an agent or successor in interest thereof, or otherwise to enforce such blanket security interest against the structured settlement payment rights.

Sec. 20. Minnesota Statutes 2020, section 549.30, is amended by adding a subdivision to read:

Subd. 18a. **Transfer expense.** "Transfer expense" means all expenses of a transfer that are required under the transfer agreement to be paid by the payee or deducted from the gross advance amount, including, without limitation, court filing fees, attorney fees, escrow fees, lien recordation fees, and judgment and lien search fees. Transfer expense does not include preexisting obligations of the payee payable for the payee's account from the proceeds of the transfer.

Sec. 21. Minnesota Statutes 2020, section 549.30, is amended by adding a subdivision to read:

Subd. 18b. **Transfer order.** "Transfer order" means an order approving a transfer in accordance with sections 549.30 to 549.41.

Sec. 22. Minnesota Statutes 2020, section 549.30, subdivision 19, is amended to read:

Subd. 19. **Transferee.** "Transferee" means a person ~~who is receiving or will receive structured settlement payment rights resulting from a transfer~~ acquiring or proposing to acquire structured settlement payment rights through a transfer.

Sec. 23. **[549.35] REGISTRATION; SURETY BOND.**

Subdivision 1. **Registration required.** A person shall not act as a transferee, attempt to acquire structured settlement payment rights through a transfer from a payee who resides in this state, or file a structured settlement transfer proceeding unless the person is registered with the secretary to do business in this state as a structured settlement purchase company.

Subd. 2. **Forms; process.** A person may apply pursuant to this section with the secretary for a registration to do business in this state as a structured settlement purchase company. An application for an initial or renewed registration must be submitted on a form prescribed by the secretary. An initial or renewed registration is valid for one year from the date it is issued, expires one year after it is issued, and may be renewed annually by the registrant on or before the expiration date.

Subd. 3. **Application; surety bond.** (a) Each initial or renewal application must contain a sworn certification by an owner; officer; director or manager of the applicant, if the applicant is not a natural person; or by the applicant if the applicant is a natural person, certifying that:

(1) the applicant has secured a surety bond payable to the state, has been issued a letter of credit, or has posted a cash bond in the amount of \$50,000. The security device must be in a form satisfactory to the secretary and must run to the state for the benefit of any payee claimant to secure the faithful performance of the obligation of the structured settlement purchase company under the law, and the secretary shall have no other duty than to receive the sworn certification of surety bond; and

(2) the applicant shall comply with sections 549.30 to 549.41 when acting as a structured settlement purchase company and filing structured settlement transfer proceedings.

(b) A surety bond, letter of credit, or cash bond obtained under this section must be effective concurrently with the registration of the applicant and must remain in effect for not less than three years after the expiration or termination of the registration. The surety bond, letter of credit, or cash bond must be renewed each year as needed to keep it continuously in effect when the registration of the applicant is renewed.

Subd. 4. **Postjudgment notice.** No later than ten days after a judgment is obtained against a structured settlement purchase company by a payee, the structured settlement purchase company shall file a notice with the secretary and, if applicable, the surety which issued the surety bond used by the structured settlement purchase company to satisfy the requirements under subdivision 3. The notice must contain:

(1) a copy of the judgment;

(2) the name and address of the judgment creditor; and

(3) the status of the matter, including whether the judgment will be appealed or has been paid or satisfied.

Subd. 5. **Effect on liability and transfer orders.** (a) The liability of the surety which issued a surety bond used by a structured settlement purchase company to satisfy the requirements under subdivision 3 must not be affected by a:

(1) breach of contract, breach of warranty, failure to pay a premium, or other act or omission of the structured settlement purchase company; or

(2) insolvency or bankruptcy of the structured settlement purchase company.

(b) Except as otherwise provided in section 549.36, a transfer order signed by a court of competent jurisdiction pursuant to section 549.40 constitutes a qualified order under United States Code, title 26, section 5891. If a transferee to which the transfer order applies is not registered as a structured settlement purchase company pursuant to this section at the time the transfer order is signed, the transfer order does not constitute a qualified order under United States Code, title 26, section 5891.

Subd. 6. **Cancellation or modification.** (a) A surety which issued a surety bond used by a structured settlement purchase company to satisfy the requirements under subdivision 3 and the structured settlement purchase company which obtained the surety bond shall not cancel or modify the surety bond during the term for which it is issued unless the surety or the structured settlement purchase company provides written notice to the secretary at least 20 days before the effective date of the cancellation or modification.

(b) If a surety bond used by a structured settlement purchase company to satisfy the requirements of subdivision 3 is modified so as to make the surety bond not comply with any provision of sections 549.30 to 549.41, or the surety bond is canceled, the registration of the structured settlement purchase company expires on the effective date of the modification or cancellation unless a new surety bond, letter of credit, or cash bond which complies with sections 549.30 to 549.41, is filed with the secretary on or before the effective date of the modification or cancellation.

(c) A modification or cancellation of a surety bond used by a structured settlement purchase company to satisfy the requirements of subdivision 3 does not affect any liability of the bonded surety company incurred before the modification or cancellation of the surety bond.

Subd. 7. **Exemptions.** (a) An assignee is not required to register as a structured settlement purchase company to acquire structured settlement payment rights or to take security interest in structured settlement payment rights that were transferred by the payee to a structured settlement purchase company.

(b) An employee of a structured settlement purchase company, if acting on behalf of the structured settlement purchase company in connection with a transfer, is not required to be registered.

Subd. 8. **Fee.** \$700 shall be paid to the secretary of state at the time of making an initial registration application and \$200 for a renewal under this section.

**EFFECTIVE DATE.** This section is effective January 1, 2023.

## Sec. 24. **[549.36] PROHIBITED PRACTICES; PENALTIES.**

Subdivision 1. **Prohibited practices.** A transferee or structured settlement purchase company and an employee or other representative of a transferee or structured settlement purchase company shall not engage in the following actions:

(1) pursue or complete a transfer with a payee without complying with all applicable provisions of sections 549.30 to 549.41;

(2) refuse or fail to fund a transfer after court approval of the transfer;

(3) acquire structured settlement payment rights from a payee without complying with all applicable provisions of sections 549.30 to 549.41, including obtaining court approval of the transfer;

(4) intentionally file a structured settlement transfer proceeding in any court other than the court specified in section 549.40, unless the transferee is required to file in a different court by applicable law;

(5) except as otherwise provided in this clause, pay a commission or finder's fee to any person for facilitating or arranging a structured settlement transfer with a payee. The provisions of this clause do not prevent a structured settlement purchase company from paying:

(i) a salary, commission, or other compensation to a person who is an employee of a structured settlement purchase company; or

(ii) routine transfer expenses to third parties, including, without limitation, court filing fees, escrow fees, lien recordation fees, judgment and lien search fees, attorney fees, and other similar fees relating to a transfer;

(6) attempt to coerce, bribe, or intimidate a payee seeking to transfer structured settlement payment rights, including providing any gift, loan, extension of credit, advance, or other forms of consideration paid to or given to the payee as an inducement to enter a transfer agreement;

(7) attempt to defraud a payee or any party to a structured settlement transfer or any interested party in a structured settlement transfer proceeding by any means including, but not limited to, forgery or false identification;

(8) except as otherwise provided in this clause, intervene in a pending structured settlement transfer proceeding if the transferee or structured settlement purchase company is not a party to the proceeding or an interested party relative to the proposed transfer which is the subject of the pending structured settlement transfer proceeding. The provisions of this clause do not prevent a structured settlement purchase company from intervening in a pending structured settlement transfer proceeding if the payee has signed a transfer agreement with the structured settlement purchase company within 60 days before the filing of the pending structured settlement transfer proceeding and the structured settlement purchase company which filed the pending structured settlement transfer proceeding violated any provision in sections 549.30 to 549.41 in connection with the proposed transfer that is the subject of the pending structured settlement transfer proceeding;

(9) except as otherwise provided in this clause, knowingly contact a payee who has signed a transfer agreement and is pursuing a proposed transfer with another structured settlement purchase company for the purpose of inducing the payee into canceling the proposed transfer or transfer agreement with the other structured settlement purchase company if a structured settlement transfer proceeding has been filed by the other structured settlement purchase company and is pending. The provisions of this clause do not apply if no hearing has been held in the pending structured settlement transfer proceeding within 90 days after the filing of the pending structured settlement transfer proceeding;

(10) fail to dismiss a pending structured settlement transfer proceeding at the request of the payee. A dismissal of a structured settlement proceeding after a structured settlement purchase company has violated the provisions of this clause does not exempt the structured settlement purchase company from any liability under this section;

(11) solicit a prospective payee through the conveyance of a document which resembles a check or other form of payment;

(12) provide a transfer agreement or related document that purports to give the transferee the first choice or option to purchase any remaining structured settlement payments rights belonging to the payee which are not subject to the structured settlement transfer proceeding; or

(13) communicate with a payee, a prospective payee, or a person associated with the payee:

(i) after the payee, a prospective payee, or a person associated with the payee has informed the structured settlement purchase company to cease further communication;

(ii) at any unusual time, or at a time that the structured settlement purchase company knows is inconvenient to the consumer. In the absence of the structured settlement purchase company's knowledge of circumstances to the contrary, a time before 8:00 a.m. and after 9:00 p.m. local time at the consumer's location is inconvenient. This clause will not apply to any payee, prospective payee, or person associated with the payee who has opted in and agreed to allow the structured settlement purchase company to contact the person when necessary; or

(iii) repeatedly or continuously with intent to annoy, abuse, or harass a payee, prospective payee, or a person associated with the payee.

**Subd. 2. Prohibitions regarding provision of independent professional advice.** (a) A transferee or structured settlement purchase company and an employee or other representative of a transferee or structured settlement purchase company shall not instruct a payee to hire or directly refer a payee or a prospective payee to seek independent professional advice from a specific person, except that a structured settlement purchase company may refer a payee to a state or local referral service, bar association, legal aid, or any other entity unrelated to the structured settlement purchase company.

(b) A person rendering independent professional advice to a payee or prospective payee is not to be affected by whether a transfer occurs or does not occur and must not in any manner be affiliated with, or compensated by the transferee or a structured settlement purchase company unless ordered by the court.

**Subd. 3. Enforcement; remedies.** (a) A violation of this section is a deceptive practice in violation of section 325F.69.

(b) A payee may file a motion in the district court in which the structured settlement transfer proceeding was pending alleging a violation of this section and may pursue all rights and remedies to which the payee may be entitled pursuant to sections 549.30 to 549.41, or any other applicable law.

(c) A structured settlement purchase company may file a motion in district court in which the structured settlement transfer proceeding was pending to enforce subdivision 1, clauses (4), (6), and (8) to (10), and may pursue all remedies to which the structured settlement purchase company may be entitled pursuant to sections 549.30 to 549.41, or any other applicable law.

(d) If a court finds that a structured settlement purchase company or transferee is in violation of this section, the court may:

(1) revoke the registration of the structured settlement purchase company;

(2) suspend the registration of the structured settlement purchase company for a period to be determined at the discretion of the court;

(3) enjoin the structured settlement purchase company or transferee from filing new structured settlement transfer proceedings in this state or otherwise pursuing transfers in this state; and

(4) order other equitable relief as determined by the court.

Sec. 25. **[549.37] REQUIRED DISCLOSURES TO PAYEE.**

Not less than ten days before the date on which a payee signs a transfer agreement, the transferee shall provide to the payee a separate disclosure statement, in bold type no smaller than 14-point font, setting forth the following:

(1) the amounts and due dates of the structured settlement payments to be transferred;

(2) the aggregate amount of such payments;

(3) the discounted present value of the payments to be transferred, which must be identified as the "calculation of current value of the transferred structured settlement payments under federal standards for valuing annuities," and the amount of the applicable federal rate used in calculating such discounted present value;

(4) the gross advance amount;

(5) an itemized list of all applicable transfer expenses, other than attorney fees and related disbursements, payable in connection with the transferee's application for approval of the transfer, and the transferee's best estimate of the amount of any such attorney fees and related disbursements;

(6) the effective annual interest rate, which must be disclosed in a statement in the following form: "On the basis of the net amount that you will receive from us and the amounts and timing of the structured settlement payments that you are transferring to us, you will, in effect be paying interest to us at a rate of ..... percent per year.";

(7) the net advance amount;

(8) the quotient, expressed as a percentage, obtained by dividing the net payment amount by the discounted present value of the payments;

(9) the amount of any penalties or liquidated damages payable by the payee in the event of any breach of the transfer agreement by the payee;

(10) that the payee has the right to cancel the transfer agreement, without penalty or further obligation, until the transfer is approved by the court;

(11) that the payee has the right to seek and receive independent professional advice from an attorney, certified public accountant, actuary, or other licensed professional adviser regarding the proposed transfer and should consider doing so before agreeing to the transfer of any structured settlement payment rights. The notice must also contain: "It is prohibited for us to refer you to a specific independent professional adviser. We may refer you to a state or local referral service, bar association, legal aid, or any other entity unrelated to us which assists people with locating independent professional advice, if requested"; and

(12) that the payee has the right to seek out and consider additional offers for transferring the structured settlement payment rights and should do so.

Sec. 26. **[549.38] CONDITIONS AND APPROVAL OF TRANSFERS OF STRUCTURED SETTLEMENT PAYMENT RIGHTS AND STRUCTURED SETTLEMENT AGREEMENTS.**

Subdivision 1. **Conditions; approval.** (a) 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 or assignee of structured settlement payment rights unless the transfer has been approved in advance in a final court order based on express findings by the court that:

(1) the transfer is in the best interests of the payee, taking into account the welfare and support of the payee's dependents, if any;

(2) the payee has been advised in writing by the transferee to seek independent professional advice regarding the legal, tax, and financial implications of the transfer and if the payee has knowingly declined advice; and

(3) the transfer does not contravene any applicable statute or order of any court or other governmental authority.

(b) In determining whether a proposed transfer is in the best interests of the payee, taking into consideration the payee's dependents, if any, the court shall, among other things, consider the following:

(1) the reasonable preference of the payee, in light of the payee's age, mental capacity, maturity level, understanding of the terms of the agreement, and stated purpose for the transfer;

(2) if the periodic payments were intended to cover future income or losses or future medical expenses, whether the payee has means of support aside from the structured settlement to meet these obligations;

(3) whether the payee can meet the financial needs of, and obligations to, the payee's dependents if the transfer is allowed to proceed, including child support and spousal maintenance;

(4) whether the payee completed previous transactions involving the payee's structured settlement payment rights and the timing, size, stated purpose, and actual use of the proceeds;

(5) the impact of the proposed transfer on current or future eligibility of the payee or the payee's dependents for public benefits; and

(6) any other factors or facts the court determines are relevant and should be considered.

Subd. 2. **Additional conditions for transfer of minor's structured settlement payment rights.** No direct or indirect transfer of a minor's structured settlement payments rights by a parent, conservator, or guardian shall be effective and no structured settlement obligor or annuity issuer shall be required to make a payment directly or indirectly to any transferee or assignee of structured settlement payment rights unless, in addition to the findings required under subdivision 1, the court also finds, that:

(1) the proceeds of the proposed transfer would be applied solely for support, care, education, health, and welfare of the minor payee; and

(2) any excess proceeds would be preserved for the future support, care, education, health, and welfare of the minor payee and transferred to the minor payee upon emancipation.

**Sec. 27. [549.39] EFFECTS OF TRANSFER OF STRUCTURED SETTLEMENT PAYMENT RIGHTS.**

Following a transfer of structured settlement payment rights:

(1) the structured settlement obligor and the annuity issuer may rely on the court order approving the transfer in redirecting periodic payments to an assignee or transferee in accordance with the order approving the transfer and shall, as to all parties except the transferee or an assignee designated by the transferee, be discharged and released from any and all liability for the redirected payments and such discharge and release shall not be affected by the failure of any party to the transfer to comply with this chapter or with the court order approving the transfer;

(2) the transferee is liable to the structured settlement obligor and the annuity issuer:

(i) if the transfer contravenes the terms of the structured settlement, for any taxes incurred by the structured settlement obligor or annuity issuer as a consequence of the transfer; and

(ii) for any other liabilities or costs, including reasonable costs and attorney fees, arising from compliance by the structured settlement obligor or annuity issuer with the court order or order of the responsible administrative authority approving the transfer or from the failure of any party to the transfer to comply with sections 549.30 to 549.41;

(3) neither the annuity issuer nor the structured settlement obligor may be required to divide any periodic payment between the payee and any transferee or assignee or between two or more transferees or assignees; and

(4) any further transfer of structured settlement payment rights by the payee may be made only after compliance with all of the requirements of sections 549.30 to 549.41.

**Sec. 28. [549.40] PROCEDURE FOR APPROVAL OF TRANSFERS.**

Subdivision 1. **Application; proof of registration.** An application under sections 549.30 to 549.41 for approval of a transfer of structured settlement payment rights must be made by the transferee. The application must be brought in the district court of the county in which the payee is domiciled, except that the application may be brought in the court in the state that approved the structured settlement agreement if the structured settlement agreement requires the application be brought in that court. For applications made under this section on or after January 1, 2023, the application of the transferee must include evidence that the transferee is registered to do business in this state as a structured settlement purchase company pursuant to section 549.35.

Subd. 2. **Hearing.** A timely hearing must be held on an application for approval of a transfer of structured settlement payment rights. The payee must appear in person at the hearing, unless the court determines that good cause exists to excuse the payee from appearing in person.

Subd. 3. **Notice.** Not less than 20 days before the scheduled hearing on any application for approval of a transfer of structured settlement payment rights pursuant to sections 549.30 to 549.41, the transferee shall file with the court and serve on all interested parties a notice of the proposed transfer and application for authorization, including with such notice:

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

(2) a copy of the transfer agreement;

(3) a copy of the disclosure statement required by section 549.37;

(4) the payee's name, age, county of domicile, and the number and ages of each of the payee's dependents;

(5) any prior transfers by the payee to the transferee or an affiliate, or through the transferee or an affiliate to an assignee, and any proposed transfers by the payee to the transferee or an affiliate, or through the transferee or an affiliate, applications for approval of which were denied;

(6) a sworn affidavit from the transferee listing any prior transfers by the payee that includes the details of the reasonable measures taken to search for and identify prior transfers to any person or entity other than the transferee or an affiliate or an assignee of the transferee and any prior proposed transfer applications by the payee to any person or entity other than the transferee or an affiliate or an assignee of a transferee or affiliate which were denied;

(7) an affidavit from the payee disclosing all prior transfers by the payee to any person or entity;

(8) notification that any interested party is entitled to support, oppose, or otherwise respond to the transferee's application, either in person or by counsel, by submitting written comments to the court or by participating in the hearing; and

(9) notification of the time and place of the hearing and notification of the manner in which and the date by which written responses to the application must be filed to be considered by the court, which must not be less than five days before the hearing.

Subd. 4. **Dismissal.** If the payee cancels a transfer agreement or if the transfer agreement otherwise terminates, after an application for approval of a transfer of structured settlement payment rights has been filed and before it has been granted or denied, the transferee must promptly request the dismissal of the application.

#### Sec. 29. [549.405] APPOINTMENT OF ATTORNEY ADVISER.

Subdivision 1. **Discretionary appointment.** The court is authorized and may, in its discretion, appoint an attorney to make an independent assessment and advise the court whether the proposed transfer is in the best interest of the payee, taking into consideration the payee's dependents, if any. The attorney may consult with a certified public accountant, actuary, or other licensed professional adviser, if necessary. All costs and reasonable fees for the appointed attorney shall be borne by the transferee, not to exceed \$2,000. The fee shall be deposited with and disbursed to the attorney adviser by the court.

Subd. 2. **Mandatory appointment.** The court shall appoint an attorney in any case involving:

(1) a proposed transfer of a minor's structured settlement payments rights by a parent, conservator, or guardian where the attorney must advise the court on whether the proposed transfer is of direct benefit to the minor; or

(2) a proposed transfer of structured settlement payment rights involving a payee if it appears to the court that the payee may suffer from a mental or cognitive impairment.

Subd. 3. **Required motion; mental or cognitive impairment of payee.** (a) The transferee shall file a motion for the appointment of an attorney prior to a hearing on the proposed transfer if the transferee:

(1) is aware that the underlying structured settlement arose from a case in which a finding was made in a court record of a mental or cognitive impairment on the part of the payee; or

(2) is aware of any other case in which a finding was made in a court record of a mental or cognitive impairment on the part of the payee.

(b) In conjunction with the motion, the transferee shall provide to the court, either in-camera or as directed by the court in a way to protect the privacy of the payee, any such findings known to the transferee that describe the nature, extent, or consequences of the payee's mental or cognitive impairment.

Subd. 4. **Attorney adviser report.** The attorney appointed by the court must report to the court the attorney's assessment and advice at the hearing required under section 549.40, subdivision 2, or at another time as directed by the court.

Subd. 5. **Applicability of other law.** Nothing in sections 549.30 to 549.41 affects the applicability of sections 524.5-101 to 524.5-903 or the rights and protections of persons subject to guardianship or conservatorship under those sections.

### Sec. 30. **[549.41] GENERAL PROVISIONS; CONSTRUCTION.**

Subdivision 1. **Waiver prohibited.** The provisions of sections 549.30 to 549.41 may not be waived by a payee.

Subd. 2. **Choice of law; venue.** Any transfer agreement entered into by a payee who is domiciled in this state must provide that dispute under the transfer agreement, including any claims that the payee has breached the agreement, and must be determined in and under the laws of this state. No such transfer agreement shall authorize the transferee or any other party to confess judgment or consent to entry of judgment against the payee.

Subd. 3. **Life-contingent payments.** No transfer of structured settlement payment rights shall extend to any payments that are life contingent unless, prior to the date on which the payee signs the transfer agreement, the transferee has established and has agreed to maintain procedures reasonably satisfactory to the annuity issuer and the structured settlement obligor (1) periodically confirms the payee's survival, and (2) gives the annuity issuer and the structured settlement obligor prompt written notice in the event of the payee's death.

Subd. 4. **Liability.** (a) No payee who proposes to make a transfer of structured settlement payment rights shall incur any penalty, forfeit any application fee or other payment, or otherwise incur any liability to the proposed transferee or any assignee based on any failure of such transfer to satisfy the conditions of sections 549.30 to 549.41.

(b) Compliance with the requirements set forth in sections 549.30 to 549.41 are solely the responsibility of the transferee in any transfer of structured settlement payment rights and neither the structured settlement obligor nor the annuity issuer, if any, has any responsibility for, or any liability arising from, noncompliance with such requirements or failure to fulfill such conditions.

Subd. 5. **Construction.** (a) Nothing contained in sections 549.30 to 549.41 shall be construed to authorize the transfer of workers' compensation payment rights in contravention of applicable law or to give effect to the transfer of workers' compensation payment rights that is invalid under applicable law.

(b) Nothing contained in sections 549.30 to 549.41 shall:

(1) be construed to authorize any transfer of structured settlement payment rights in contravention of any applicable law or to imply that any transfer under a transfer agreement entered into before August 1, 2022, is valid or invalid; or

(2) affect the validity of any transfer of structured settlement payment rights, whether under a transfer agreement entered into or filed before August 1, 2022, in which the structured settlement obligor and annuity issuer waived or has not asserted their rights under terms of the structured settlement prohibiting or restricting the sale, assignment, or encumbrance of the structured settlement payment rights.

Subd. 6. **Application.** Sections 549.30 to 549.41 apply to any transfer of structured settlement payment rights filed on or after August 1, 2022.

Sec. 31. **APPROPRIATION.**

\$19,000 in fiscal year 2023 is appropriated from the general fund to the secretary of state for the purposes outlined in Minnesota Statutes, section 549.35. The base in fiscal years 2024 and 2025 is \$3,000.

Sec. 32. **REPEALER.**

Minnesota Statutes 2020, sections 549.30, subdivision 3; 549.31; 549.32; 549.33; and 549.34, are repealed.

Sec. 33. **EFFECTIVE DATE.**

Sections 1 to 22 and 24 to 30 are effective August 1, 2022, and apply to transfers of structured settlement payment rights filed on or after that date.

Presented to the governor May 17, 2022

Signed by the governor May 19, 2022, 1:47 p.m.