

## CHAPTER 549

### COSTS, DISBURSEMENTS

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#### 549.01 AGREEMENT AS TO FEES OF ATTORNEY.

A party shall have an unrestricted right to agree with an attorney as to compensation for services, and the measure and mode thereof; but certain sums may be allowed to the prevailing party for expenses in an action, which are termed costs.

**History:** (9470) RL s 4337; 1986 c 444

#### 549.02 COSTS.

Subdivision 1. **District court.** In actions commenced in the district court, costs shall be allowed as follows:

To plaintiff: (1) Upon a judgment in the plaintiff's favor of \$100 or more in an action for the recovery of money only, \$200. (2) In all other actions, including an action by a public employee for wrongfully denied or withheld employment benefits or rights, except as otherwise specially provided, \$200.

To defendant: Upon discontinuance or dismissal or when judgment is rendered in the defendant's favor on the merits, \$200.

To the prevailing party: \$5.50 for the cost of filing a satisfaction of the judgment.

This section does not apply to actions removed to district court from conciliation court.

Subd. 2. **On appeal.** Upon a judgment on the merits on appeal to the court of appeals or supreme court, additional costs in the amount of \$300 shall be allowed to the prevailing party.

Subd. 3. **Limitation.** Notwithstanding subdivisions 1 and 2, where the state agency is named or intervenes as a party to enforce the agency's rights under section 256B.056, the agency shall not be liable for costs to any prevailing defendant.

**History:** (9471) *RL s 4338; 1974 c 413 s 1; 1986 c 444; 1988 c 484 s 3; 1992 c 591 s 20; 1993 c 192 s 103; 1Sp2005 c 4 art 8 s 78*

### **549.03 ACTIONS FOR SERVICES; DOUBLE COSTS.**

When any person who employed another to perform any labor or service neglects or refuses to pay the agreed price, or the reasonable value if there is no agreement, for 30 days after it is due and payment is demanded, and the payment is recovered by action, there shall be allowed to the plaintiff, and included in the judgment, all of the disbursements allowed by law and double the costs.

**History:** (9472) *RL s 4339; 1907 c 200 s 1; 1983 c 359 s 77; 1986 c 444*

### **549.04 DISBURSEMENTS; TAXATION AND ALLOWANCE.**

Subdivision 1. **Generally.** In every action in a district court, the prevailing party, including any public employee who prevails in an action for wrongfully denied or withheld employment benefits or rights, shall be allowed reasonable disbursements paid or incurred, including fees and mileage paid for service of process by the sheriff or by a private person.

Subd. 2. **Limitation.** Notwithstanding subdivision 1, where the state agency is named or intervenes as a party to enforce the agency's rights under section 256B.056, the agency shall not be liable for disbursements to any prevailing defendant.

**History:** (9473) *RL s 4340; 1943 c 508 s 1; 1974 c 413 s 2; 1983 c 93 s 1; 1Sp2005 c 4 art 8 s 79*

### **549.05 COSTS IN CERTAIN CASES COMMENCED IN DISTRICT COURT OF FOURTH JUDICIAL DISTRICT COGNIZABLE BY MUNICIPAL COURT.**

In any action commenced in the district court of the Fourth Judicial District, no costs or disbursements shall be allowed the plaintiff where there is a municipal court in the district where such action is brought, having jurisdiction of the subject matter and in which jurisdiction of the defendant or defendants could be acquired, and in case the amount of recovery by the plaintiff in such an action is less than \$200, the plaintiff shall pay the defendant's costs and disbursements.

**History:** (9473-1) *1925 c 326*

### **549.06 SEVERAL ACTIONS; COSTS, HOW ALLOWED.**

When several actions are brought on one instrument, or for the same cause of action, against several parties who might have been joined as defendants in the same action, costs shall be allowed to the plaintiff in but one of such actions, to be selected by the plaintiff, if at the commencement of such action the defendants in the other actions were openly within the state; but plaintiff's disbursements may be allowed as provided in section 549.04.

**History:** (9474) *RL s 4341; 1977 c 347 s 62; 1986 c 444*

### **549.07 EQUITABLE ACTIONS; SEVERAL DEFENDANTS.**

In equitable actions, costs may be allowed or not, and, if allowed, may be apportioned between the parties on the same or adverse sides, in the discretion of the court. When there are several defendants not

united in interest, and making separate defenses by separate answers, and plaintiff fails to recover judgment against all, the court may award costs to such defendants as have judgment in their favor, or any of them.

**History:** (9475) *RL s 4342*

#### **549.08 ACTION ON JUDGMENT.**

Costs shall not be allowed to plaintiff in an action upon a domestic judgment between the same parties, unless such action was brought with previous leave of the court for cause shown; but this shall not apply to an action upon the judgment of a justice brought in another county or in the same county where the summons was not served upon all the defendants, or in case of the death of a party, or the death, resignation, incapacity to act, or removal from the county of the justice, or the loss of the docket.

**History:** (9476) *RL s 4343; 1986 c 444*

#### **549.09 INTEREST ON VERDICTS, AWARDS, AND JUDGMENTS.**

Subdivision 1. **When owed; rate.** (a) When a judgment or award is for the recovery of money, including a judgment for the recovery of taxes, interest from the time of the verdict, award, or report until judgment is finally entered shall be computed by the court administrator or arbitrator as provided in paragraph (c) and added to the judgment or award.

(b) Except as otherwise provided by contract or allowed by law, preverdict, preaward, or prereport interest on pecuniary damages shall be computed as provided in paragraph (c) from the time of the commencement of the action or a demand for arbitration, or the time of a written notice of claim, whichever occurs first, except as provided herein. The action must be commenced within two years of a written notice of claim for interest to begin to accrue from the time of the notice of claim. If either party serves a written offer of settlement, the other party may serve a written acceptance or a written counteroffer within 30 days. After that time, interest on the judgment or award shall be calculated by the judge or arbitrator in the following manner. The prevailing party shall receive interest on any judgment or award from the time of commencement of the action or a demand for arbitration, or the time of a written notice of claim, or as to special damages from the time when special damages were incurred, if later, until the time of verdict, award, or report only if the amount of its offer is closer to the judgment or award than the amount of the opposing party's offer. If the amount of the losing party's offer was closer to the judgment or award than the prevailing party's offer, the prevailing party shall receive interest only on the amount of the settlement offer or the judgment or award, whichever is less, and only from the time of commencement of the action or a demand for arbitration, or the time of a written notice of claim, or as to special damages from when the special damages were incurred, if later, until the time the settlement offer was made. Subsequent offers and counteroffers supersede the legal effect of earlier offers and counteroffers. For the purposes of clause (2), the amount of settlement offer must be allocated between past and future damages in the same proportion as determined by the trier of fact. Except as otherwise provided by contract or allowed by law, preverdict, preaward, or prereport interest shall not be awarded on the following:

- (1) judgments, awards, or benefits in workers' compensation cases, but not including third-party actions;
- (2) judgments or awards for future damages;
- (3) punitive damages, fines, or other damages that are noncompensatory in nature;
- (4) judgments or awards not in excess of the amount specified in section 491A.01; and

(5) that portion of any verdict, award, or report which is founded upon interest, or costs, disbursements, attorney fees, or other similar items added by the court or arbitrator.

(c)(1)(i) For a judgment or award of \$50,000 or less or a judgment or award for or against the state or a political subdivision of the state, regardless of the amount, or a judgment or award in a family court action, except for a child support judgment, regardless of the amount, the interest shall be computed as simple interest per annum. The rate of interest shall be based on the secondary market yield of one year United States Treasury bills, calculated on a bank discount basis as provided in this section.

On or before the 20th day of December of each year the state court administrator shall determine the rate from the one-year constant maturity treasury yield for the most recent calendar month, reported on a monthly basis in the latest statistical release of the board of governors of the Federal Reserve System. This yield, rounded to the nearest one percent, or four percent, whichever is greater, shall be the annual interest rate during the succeeding calendar year. The state court administrator shall communicate the interest rates to the court administrators and sheriffs for use in computing the interest on verdicts and shall make the interest rates available to arbitrators.

This item applies to any section that references section 549.09 by citation for the purposes of computing an interest rate on any amount owed to or by the state or a political subdivision of the state, regardless of the amount.

(ii) The court, in a family court action, may order a lower interest rate or no interest rate if the parties agree or if the court makes findings explaining why application of a lower interest rate or no interest rate is necessary to avoid causing an unfair hardship to the debtor. This item does not apply to child support or spousal maintenance judgments subject to section 548.091.

(2) For a judgment or award over \$50,000, other than a judgment or award for or against the state or a political subdivision of the state or a judgment or award in a family court action, the interest rate shall be ten percent per year until paid.

(3) When a judgment creditor, or the judgment creditor's attorney or agent, has received a payment after entry of judgment, whether the payment is made voluntarily by or on behalf of the judgment debtor, or is collected by legal process other than execution levy where a proper return has been filed with the court administrator, the judgment creditor, or the judgment creditor's attorney, before applying to the court administrator for an execution shall file with the court administrator an affidavit of partial satisfaction. The affidavit must state the dates and amounts of payments made upon the judgment after the most recent affidavit of partial satisfaction filed, if any; the part of each payment that is applied to taxable disbursements and to accrued interest and to the unpaid principal balance of the judgment; and the accrued, but the unpaid interest owing, if any, after application of each payment.

(4) Beginning August 1, 2022, interest shall not accrue on past, current, or future child support judgments.

(d) This section does not apply to arbitrations between employers and employees under chapter 179 or 179A. An arbitrator is neither required to nor prohibited from awarding interest under chapter 179 or under section 179A.16 for essential employees.

(e) For purposes of this subdivision:

(1) "state" includes a department, board, agency, commission, court, or other entity in the executive, legislative, or judicial branch of the state; and

(2) "political subdivision" includes a town, statutory or home rule charter city, county, school district, or any other political subdivision of the state.

Subd. 2. **Accrual of interest.** During each calendar year, interest shall accrue on the unpaid balance of the judgment or award from the time that it is entered or made until it is paid, at the annual rate provided in subdivision 1. The court administrator shall compute and add the accrued interest to the total amount to be collected when the execution is issued and compute the amount of daily interest accruing during the calendar year. The person authorized by statute to make the levy shall compute and add interest from the date that the writ of execution was issued to the date of service of the writ of execution and shall direct the daily interest to be computed and added from the date of service until any money is collected as a result of the levy.

Subd. 3. **Deductions.** If an affidavit is filed pursuant to subdivision 4, a judgment creditor, or the judgment creditor's attorney or agent, is entitled to deduct from any payment made upon a judgment, whether the payment is made voluntarily by or on behalf of the judgment debtor, or is collected by legal process, all disbursements that are made taxable by statute or by rule of court, that have been paid or incurred by the judgment creditor or the judgment creditor's attorney, after the entry of judgment. Any remaining portion of the payment must be applied to the interest that has accrued upon the unpaid principal balance of the judgment before any remaining part is applied to reduce the unpaid principal balance of the judgment.

Subd. 4. **Affidavit.** A judgment creditor, or the judgment creditor's attorney, may file an affidavit specifying the nature and amount of taxable disbursements paid or incurred by the judgment creditor, or the judgment creditor's attorney, after the entry of judgment. An execution issued by the court administrator must include increased disbursements as are included in the affidavit filed with the court administrator.

**History:** (9477) *RL s 4344; 1909 c 371 s 1; 1979 c 105 s 1; 1980 c 509 s 179; 1984 c 399 s 1; 1984 c 472 s 2; 1986 c 455 s 81; 1Sp1986 c 3 art 1 s 82; 1987 c 273 s 3; 1988 c 503 s 1; 1991 c 266 s 10; 1991 c 321 s 7; 1992 c 363 art 1 s 8; 1993 c 321 s 5; 1994 c 465 art 1 s 58; 2002 c 247 s 1; 2009 c 83 art 2 s 35; 2010 c 249 s 1; 2010 c 385 s 8; 2015 c 30 art 1 s 12; 2021 c 30 art 10 s 78*

**549.10** MS 1949 [Repealed, 1974 c 394 s 12]

#### **549.11 COSTS ALLOWED ON MOTION OR DEMURRER.**

Costs may be allowed on motion, demurrer, or appeal from taxation of costs, in the discretion of the court or judge, not exceeding \$10, and may be absolute, or directed to abide the event of the action.

**History:** (9479) *RL s 4346*

#### **549.12 AGAINST GUARDIAN OF INFANT PLAINTIFF.**

When costs or disbursements are adjudged against an infant plaintiff, the guardian by whom the infant appears in the action shall be responsible for them, and judgment therefor may be entered against both infant and guardian.

**History:** (9480) *RL s 4347; 1986 c 444*

#### **549.13 DEFENDANT AFTER TENDER.**

When in an action on contract, express or implied, the defendant alleges in the answer that before the commencement of the action the defendant tendered to the plaintiff the full amount to which the plaintiff

was entitled, and thereupon deposits in court for the plaintiff the amount so tendered, and the allegation is found true, the defendant shall be entitled to costs and disbursements.

**History:** (9481) *RL s 4348; 1986 c 444*

#### **549.14 CHARGEABLE ON ESTATE OR FUND.**

In an action prosecuted or defended by an executor, administrator, trustee of an express trust, or person expressly authorized by statute, costs and disbursements may be recovered as in an action by and against a person prosecuting or defending in the person's own right. The same shall be made chargeable only upon the estate, fund, or party represented, unless the court shall direct the same to be paid by the plaintiff or defendant personally, for mismanagement or bad faith in the action; but no costs or disbursements are recoverable against an executor or administrator unless it appears that the demand was first presented to the executor or administrator, verified by oath, and payment demanded.

**History:** (9482) *RL s 4349; 1986 c 444*

#### **549.15 RELATOR ENTITLED TO, AND LIABLE FOR, COSTS.**

When an action or proceeding is instituted in the name of the state on the relation or petition of any citizen, such relator or petitioner is entitled to, and liable for, costs and disbursements in the same cases and to the same extent as if such action or proceeding had been instituted in the relator's or petitioner's own name.

**History:** (9483) *RL s 4350; 1986 c 444*

#### **549.16 MS 1982 [Repealed, 1983 c 359 s 151]**

#### **549.17 ADDITIONAL COSTS ON CHANGE OF VENUE; AMOUNT; PAYMENT OR WAIVER OF; TAXATION.**

When service of summons is made upon a defendant within a county of which the defendant is an actual resident at the time of such service, and the place of trial of such action is thereafter changed to such county in the manner provided by section 542.10, or when service of summons is made upon a defendant in a county of which the defendant is not a resident, and the place of such trial is in like manner changed to a county of which the defendant has been an actual resident for more than one year immediately preceding such service, which fact shall be set forth in defendant's affidavit for change of venue, the plaintiff shall forthwith in either case, pay to each defendant demanding such change of venue the sum of \$10 as additional costs.

No judgment shall be entered by plaintiff in any cause, the venue of which has been changed as aforesaid, until the plaintiff shall have filed with the court administrator a receipt for, or a waiver of, such sum by all of the defendants who demanded such change of venue, or their respective attorneys. Such sums if not paid by plaintiff, or waived by defendant, may be taxed against plaintiff by defendant as other costs if defendant prevails, or deducted from plaintiff's judgment, if plaintiff prevails. The provisions of this section shall not apply to causes where there are several defendants residing in different counties, or an even number of defendants, and the place or trial is determined by joinder of demands or nearness to the county seat and not by actual residence of the defendants as of right.

**History:** (9487-1) *1925 c 242 s 1; 1986 c 444; 1Sp1986 c 3 art 1 s 82*

**549.18 SECURITY FOR COSTS.**

When an action is begun in the district court by a plaintiff who is committed for a crime, or is a nonresident or a foreign corporation, or when such action is brought into the district court on appeal by defendant, such plaintiff shall file a bond to the court administrator, before service of summons, or in case of appeal within five days after perfecting the same, in the sum of at least \$75, conditioned for the payment of all costs and disbursements that may be adjudged against the plaintiff. If, after the commencement of the action or the taking of an appeal, all parties plaintiff therein become nonresidents, or the sureties on the bond remove from the state or become insolvent, the court, on motion, may require such bond, or an additional bond, to be filed, conditioned as aforesaid. This section shall not apply to any action brought for the recovery of wages or claims for personal services.

**History:** (9488) *RL s 4355; 1986 c 444; 1Sp1986 c 3 art 1 s 82*

**549.19 NEGLECT TO FILE SECURITY; PROSECUTION OF BOND.**

When any party shall commence an action without filing a bond, or fail to provide an additional bond when so required, the court, on motion of defendant, may order a stay of all proceedings in such action, or a dismissal thereof at the cost of the attorney commencing the same. When judgment is entered against any party who has given security as required, and the costs and disbursements adjudged against the party remain unpaid in whole or in part for ten days, such bond may be put in suit and prosecuted to final judgment.

**History:** (9489) *RL s 4356; 1986 c 444*

**549.191 CLAIM FOR PUNITIVE DAMAGES.**

Upon commencement of a civil action, the complaint must not seek punitive damages. After filing the suit a party may make a motion to amend the pleadings to claim punitive damages. The motion must allege the applicable legal basis under section 549.20 or other law for awarding punitive damages in the action and must be accompanied by one or more affidavits showing the factual basis for the claim. At the hearing on the motion, if the court finds prima facie evidence in support of the motion, the court shall grant the moving party permission to amend the pleadings to claim punitive damages. For purposes of tolling the statute of limitations, pleadings amended under this section relate back to the time the action was commenced.

**History:** *1986 c 455 s 82*

**549.20 PUNITIVE DAMAGES.**

Subdivision 1. **Standard.** (a) Punitive damages shall be allowed in civil actions only upon clear and convincing evidence that the acts of the defendant show deliberate disregard for the rights or safety of others.

(b) A defendant has acted with deliberate disregard for the rights or safety of others if the defendant has knowledge of facts or intentionally disregards facts that create a high probability of injury to the rights or safety of others and:

(1) deliberately proceeds to act in conscious or intentional disregard of the high degree of probability of injury to the rights or safety of others; or

(2) deliberately proceeds to act with indifference to the high probability of injury to the rights or safety of others.

Subd. 2. **Master and principal.** Punitive damages can properly be awarded against a master or principal because of an act done by an agent only if:

(1) the principal authorized the doing and the manner of the act;

(2) the agent was unfit and the principal deliberately disregarded a high probability that the agent was unfit;

(3) the agent was employed in a managerial capacity with authority to establish policy and make planning level decisions for the principal and was acting in the scope of that employment; or

(4) the principal or a managerial agent of the principal, described in clause (3), ratified or approved the act while knowing of its character and probable consequences.

Subd. 3. **Factors.** Any award of punitive damages shall be measured by those factors which justly bear upon the purpose of punitive damages, including the seriousness of hazard to the public arising from the defendant's misconduct, the profitability of the misconduct to the defendant, the duration of the misconduct and any concealment of it, the degree of the defendant's awareness of the hazard and of its excessiveness, the attitude and conduct of the defendant upon discovery of the misconduct, the number and level of employees involved in causing or concealing the misconduct, the financial condition of the defendant, and the total effect of other punishment likely to be imposed upon the defendant as a result of the misconduct, including compensatory and punitive damage awards to the plaintiff and other similarly situated persons, and the severity of any criminal penalty to which the defendant may be subject.

Subd. 4. **Separate proceeding.** In a civil action in which punitive damages are sought, the trier of fact shall, if requested by any of the parties, first determine whether compensatory damages are to be awarded. Evidence of the financial condition of the defendant and other evidence relevant only to punitive damages is not admissible in that proceeding. After a determination has been made, the trier of fact shall, in a separate proceeding, determine whether and in what amount punitive damages will be awarded.

Subd. 5. **Judicial review.** The court shall specifically review the punitive damages award in light of the factors set forth in subdivision 3 and shall make specific findings with respect to them. The appellate court, if any, also shall review the award in light of the factors set forth in that subdivision. Nothing in this section may be construed to restrict either court's authority to limit punitive damages.

**History:** 1978 c 738 s 4; 1986 c 444; 1990 c 555 s 15-18

**549.21** MS 1996 [Repealed, 1997 c 213 art 2 s 6]

### **549.211 SANCTIONS IN CIVIL ACTIONS.**

Subdivision 1. **Acknowledgment required.** The parties by their attorneys in a civil action shall attach to and make a part of the pleading, written motions, and papers served on the opposite party or parties a signed acknowledgment stating that the parties acknowledge that sanctions may be imposed under this section.

Subd. 2. **Effect of acknowledgment.** By presenting to the court, whether by signing, filing, submitting, or later advocating, a pleading, written motion, or other paper, an attorney or unrepresented party is certifying that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances:

(1) it is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;

(2) the claims, defenses, and other legal contentions are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;



(3) the allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

(4) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on a lack of information or belief.

**Subd. 3. Sanctions may be imposed.** If, after notice and a reasonable opportunity to respond, the court determines that subdivision 2 has been violated, the court may, subject to the conditions in this section, impose an appropriate sanction upon the attorneys, law firms, or parties that have violated subdivision 2 or are responsible for the violation.

**Subd. 4. How initiated.** (a) A motion for sanctions under this section must be made separately from other motions or requests and describe the specific conduct alleged to violate subdivision 2. It must be served as provided under the Rules of Civil Procedure, but may not be filed with or presented to the court unless, within 21 days after service of the motion, or another period as the court may prescribe, the challenged paper, claim, defense, contention, allegation, or denial is not withdrawn or appropriately corrected. If warranted, the court may award to the party prevailing on the motion the reasonable expenses and attorney fees incurred in presenting or opposing the motion. Absent exceptional circumstances, a law firm is jointly responsible for violations committed by its partners, associates, and employees.

(b) On its own initiative, the court may enter an order describing the specific conduct that appears to violate subdivision 2 and directing an attorney, law firm, or party to show cause why it has not violated subdivision 2 with respect to that conduct.

**Subd. 5. Nature of sanction; limitations.** (a) A sanction imposed for violation of this section must be limited to what is sufficient to deter repetition of the conduct or comparable conduct by others similarly situated. Subject to the limitations in paragraph (b), the sanction may consist of, or include, directives of a nonmonetary nature, an order to pay a penalty into court, or, if imposed on motion and warranted for effective deterrence, an order directing payment to the movant of some or all of the reasonable attorney fees and other expenses incurred as a direct result of the violation.

(b) Monetary sanctions may not be awarded against a represented party for a violation of subdivision 2, clause (2). Monetary sanctions may not be awarded on the court's initiative unless the court issues its order to show cause before a voluntary dismissal or settlement of the claims made by or against the party which is, or whose attorneys are, to be sanctioned.

(c) When imposing sanctions, the court shall describe the conduct determined to constitute a violation of this section and explain the basis for the sanction imposed.

**Subd. 6. Application; effect on other sanctions.** (a) This section does not apply to disclosures and discovery requests, responses, objections, and motions that are subject to discovery provisions and remedies of the Rules of Civil Procedure.

(b) An order or award of sanctions under this section is without prejudice and an alternative to sanctions that may be asserted under the Rules of Civil Procedure.

**History:** 1997 c 213 art 1 s 1

**549.23** MS 1988 [Repealed, 1990 c 555 s 23]

**549.24** MS 1988 [Repealed, 1990 c 555 s 23]

**549.25 FUTURE DAMAGES; PAYMENT.**

Where a claimant is awarded an amount representing future damages greater than \$100,000, the court shall hold a hearing prior to ordering entry of judgment to allow the claimant to consider whether payment of the future damages over time as the damages are incurred is in the best interests of the claimant. The following factors may be considered at the hearing, as well as any others as justice requires:

(1) the claimant's financial ability to meet obligations likely to be incurred as a result of the injury at issue in the trial;

(2) the advantages, if any, to the claimant from voluntarily entering into a structured settlement; and

(3) the interests of the claimant in self-determination over the claimant's financial affairs.

If the claimant decides, after the hearing, that structured payments of future damages would be in the claimant's best interests, the court shall make available information to assist the claimant in seeking an appropriate financial instrument to provide such payments. Judgment may not be entered until the claimant has notified the court that the claimant does not wish to enter into a structured settlement.

**History:** 1988 c 503 s 2

**STRUCTURED SETTLEMENTS****549.30 DEFINITIONS.**

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

Subd. 2. **Annuity issuer.** "Annuity issuer" means an insurer that has issued an annuity contract to be used to fund periodic payments under a structured settlement.

Subd. 3. MS 2020 [Repealed, 2022 c 62 s 32]

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.

Subd. 4. **Dependents.** "Dependents" means a payee's spouse and minor children and all other family members and other persons for whom the payee is legally obligated to provide support, including spousal maintenance.

Subd. 5. **Discounted present value.** "Discounted present value" means the 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.

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.

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.

Subd. 6. **Independent professional advice.** "Independent professional advice" means advice of an attorney, certified public accountant, actuary, or other licensed professional adviser.

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.

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

Subd. 8. **Payee.** "Payee" means an individual who is receiving tax-free damage payments under a structured settlement and proposes to make a transfer of payment rights under the structured settlement.

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

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.

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.

Subd. 10. **Responsible administrative authority.** "Responsible administrative authority" means a government authority vested by law with exclusive jurisdiction over the settled claim resolved by the structured settlement.

Subd. 10a. **Secretary.** "Secretary" means the secretary of state.

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

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.

Subd. 13. **Structured settlement agreement.** "Structured settlement agreement" means the agreement, judgment, stipulation, or release embodying the terms of a structured settlement.

Subd. 14. **Structured settlement obligor.** "Structured settlement obligor" means the party that has the continuing periodic payment obligation to the payee under a structured settlement agreement or a qualified assignment agreement.

Subd. 15. **Structured settlement payment rights.** "Structured settlement payment rights" means rights to receive periodic 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.

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.

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.

Subd. 16. **Terms of the structured settlement.** "Terms of the structured settlement" means the terms of the structured settlement agreement, the annuity contract, a qualified assignment agreement, and an order or approval of a court, responsible administrative authority, or other government authority authorizing or approving the structured settlement.

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.

Subd. 18. **Transfer agreement.** "Transfer agreement" means the agreement providing for transfer of structured settlement payment rights from a payee to a transferee.

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.

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

Subd. 19. **Transferee.** "Transferee" means a person acquiring or proposing to acquire structured settlement payment rights through a transfer.

**History:** 1999 c 212 s 2; 2022 c 62 s 1-22

**549.31** MS 2020 [Repealed, 2022 c 62 s 32]

**549.32** MS 2020 [Repealed, 2022 c 62 s 32]

**549.33** MS 2020 [Repealed, 2022 c 62 s 32]

**549.34** MS 2020 [Repealed, 2022 c 62 s 32]

### **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.

**History:** 2022 c 62 s 23

### **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.

**History:** 2022 c 62 s 24

### **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.

**History:** 2022 c 62 s 25

#### **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.

**History:** 2022 c 62 s 26

### **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.

**History:** 2022 c 62 s 27

### **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.

**History:** 2022 c 62 s 28

#### **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.

**History:** 2022 c 62 s 29

#### **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.

**History:** 2022 c 62 s 30