

not reserved to cities and counties under section 462A.222; (2) not accepted for allocation by eligible cities and counties; (3) returned to the agency for allocation; and (4) not otherwise reserved to the agency for allocation under subdivision 1. Low-income housing tax credits shall be allocated by the agency as provided in section 462A.222. The agency shall make no allocation for projects located within the jurisdiction of the cities or counties that have received tax credits under section 462A.222, subdivision 1, except from the percentage set-aside for projects involving a qualified nonprofit organization as provided under section 42 of the Internal Revenue Code of 1986, as amended through December 31, 1989, until the amounts reserved to the cities and counties for allocation have been allocated or committed or returned to the agency for allocation. In order that all of a project's credits are allocated by a single allocating agency, the agency may reserve apportion additional tax credits to a city or county that has received tax credits under section 462A.222, subdivision 1, for a project that has already received a commitment or allocation of tax credits from an eligible city or county, if all of the tax credits reserved to the eligible city or county have been committed or allocated. A city or county that has received tax credits under section 462A.222, subdivision 1, may apportion tax credits to the agency for a project located within the jurisdiction of the city or county.

Sec. 15. EQUITY TAKE-OUT LOANS.

(a) The agency may make equity take-out loans to owners of federally assisted rental property who agree to participate in the federal assistance program but extend the low-income affordability restrictions on the housing for less than the maximum term of the federal assistance contract if:

- (1) fewer than 30 percent of the units in the rental property are federally assisted; and
- (2) the units, in the agency's judgment, are at risk of conversion to market rate housing.

(b) This section expires August 1, 2001.

Sec. 16. REPORT.

The agency must report annually to the legislature on loans made under Minnesota Statutes, section 462A.05, subdivision 14.

Sec. 17. REPEALER.

Minnesota Statutes 1998, section 462A.073, subdivision 3, is repealed.

Sec. 18. EFFECTIVE DATE.

Sections 3, 4, 13, 14, and 17 are effective the day after final enactment.

Presented to the governor May 21, 1999

Signed by the governor May 24, 1999, 9:55 a.m.

CHAPTER 212—S.F.No. 148

An act relating to commerce; providing for the protection of structured settlements; amending Minnesota Statutes 1998, section 176.175, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 549.

New language is indicated by underline, deletions by ~~strikeout~~.

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

Section 1. Minnesota Statutes 1998, section 176.175, subdivision 2, is amended to read:

Subd. 2. **NONASSIGNABILITY.** No claim for compensation or settlement of a claim for compensation owned by an injured employee or dependents is assignable. Except as otherwise provided in this chapter, any claim for compensation owned by an injured employee or dependents is exempt from seizure or sale for the payment of any debt or liability.

Sec. 2. [549.30] **DEFINITIONS.**

Subdivision 1. **APPLICATION.** For purposes of sections 549.30 to 549.34, 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. **APPLICABLE LAW.** "Applicable law" means: (1) the laws of the United States; (2) the laws of this state, including principles of equity applied in the courts of this state; and (3) the laws of any other jurisdiction: (i) which is the domicile of the payee or any other interested party; (ii) under whose laws a structured settlement agreement was approved by a court or responsible administrative authority; or (iii) in whose courts a settled claim was pending when the parties entered into a structured settlement agreement.

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, 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.

Subd. 6. **INDEPENDENT PROFESSIONAL ADVICE.** "Independent professional advice" means advice of an attorney, certified public accountant, actuary, or other 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.

Subd. 7. **INTERESTED PARTIES.** "Interested parties" means the payee, a beneficiary 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 that has continuing rights or obligations under the structured settlement.

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.

New language is indicated by underline, deletions by strikeout.

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.

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. 11. **SETTLED CLAIM.** “Settled claim” means the original tort claim or workers’ compensation 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 or for periodic payments in settlement of a workers’ compensation claim.

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.

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, 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; (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.

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.

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

Subd. 19. **TRANSFeree.** “Transferee” means a person who is receiving or will receive structured settlement payment rights resulting from a transfer.

Sec. 3. [549.31] **CONDITIONS TO TRANSFERS OF STRUCTURED SETTLEMENT PAYMENT RIGHTS AND STRUCTURED SETTLEMENT AGREEMENTS.**

Subdivision 1. **GENERALLY.** No direct or indirect transfer of structured settlement payment rights is effective and no structured settlement obligor or annuity issuer is

New language is indicated by underline, deletions by ~~strikeout~~.

required to make a payment directly or indirectly to a transferee of structured settlement payment rights unless the transfer has been authorized in advance in a final order of a court of competent jurisdiction or responsible administrative authority, based on the court's or responsible administrative authority's written express findings that:

(a) the transfer complies with the requirements of sections 549.31 to 549.34 and will not contravene other applicable law;

(b) not less than ten days before the date on which the payee first incurred an obligation with respect to the transfer, the transferee has provided to the payee a disclosure statement in bold type, no smaller than 14 points, specifying:

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

(2) the aggregate amount of the payments;

(3) the discounted present value of the payments, together with the discount rate used in determining the discounted present value;

(4) the gross amount payable to the payee in exchange for the payments;

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

(6) the net amount payable to the payee after deduction of all commissions, fees, costs, expenses, and charges described in clause (5);

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

(8) the amount of any penalty and the aggregate amount of any liquidated damages, including penalties, payable by the payee in the event of a breach of the transfer agreement by the payee;

(c) the payee has established that the transfer is in the best interests of the payee and the payee's dependents;

(d) the payee has received independent professional advice regarding the legal, tax, and financial implications of the transfer;

(e) the transferee has given written notice of the transferee's name, address, and taxpayer identification number to the annuity issuer and the structured settlement obligor and has filed a copy of the notice with the court or responsible administrative authority; and

(f) that the transfer agreement provides that any disputes between the parties will be governed, interpreted, construed, and enforced in accordance with the laws of this state and that the domicile state of the payee is the proper place of venue to bring any cause of action arising out of a breach of the agreement. The transfer agreement must also provide that the parties agree to the jurisdiction of any court of competent jurisdiction located in this state.

New language is indicated by underline, deletions by strikeout.

If the transfer would contravene the terms of the structured settlement, upon the filing of a written objection by any interested party and after considering the objection and any response to it, the court or responsible administrative authority may grant, deny, or impose conditions upon the proposed transfer as the court or responsible administrative authority deems just and proper under the facts and circumstances in accordance with established principles of law. Any order approving a transfer must require that the transferee indemnify the annuity issuer and the structured settlement obligor for any liability including reasonable costs and attorney's fees arising from compliance by the issuer or obligor with the order of the court or responsible administrative authority.

Subd. 2. UNENFORCEABLE CONFESSIONS OF JUDGMENT. A provision in a transfer agreement giving a transferee power to confess judgment against a payee is unenforceable to the extent the amount of the judgment would exceed the amount paid by the transferee to the payee, less any payments received from the structured settlement obligor or the payee.

Subd. 3. INITIAL DISCLOSURE OF STRUCTURED SETTLEMENT TERMS. In negotiating a structured settlement of claims brought by or on behalf of a claimant who is domiciled in this state, the structured settlement obligor shall disclose in writing to the claimant or the claimant's legal representative all of the following information that is not otherwise specified in the structured settlement agreement:

(1) the amounts and due dates of the periodic payments to be made under the structured settlement agreement. In the case of payments that will be subject to periodic percentage increases, the amounts of future payments may be disclosed by identifying the base payment amount, the amount and timing of scheduled increases, and the manner in which increases will be compounded;

(2) the amount of the premium payable to the annuity issuer;

(3) the discounted present value of all periodic payments that are not life-contingent, together with the discount rate used in determining the discounted present value;

(4) the nature and amount of any cost that may be deducted from any of the periodic payments;

(5) where applicable, that any transfer of the periodic payments is prohibited by the terms of the structured settlement and may otherwise be prohibited or restricted under applicable law; and

(6) that any transfer of the periodic payments by the claimant may subject the claimant to serious adverse tax consequences.

Sec. 4. [549.32] JURISDICTION; PROCEDURE FOR APPROVAL OF TRANSFERS.

Subdivision 1. JURISDICTION. The district court has nonexclusive jurisdiction over an application for authorization under section 549.31 of a transfer of structured settlement payment rights.

Subd. 2. NOTICE. Not less than 20 days before the scheduled hearing on an application for authorization of a transfer of structured settlement payment rights under section 549.31, the transferee shall file with the court or responsible administrative authority

New language is indicated by underline, deletions by strikethrough.

and serve on: any other government authority that previously approved the structured settlement; and all interested parties, a notice of the proposed transfer and the application for its authorization. The notice must include:

(1) a copy of the transferee's application to the court or responsible administrative authority;

(2) a copy of the transfer agreement;

(3) a copy of the disclosure statement required under section 549.31, subdivision 1, paragraph (b);

(4) notification that an 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 responsible administrative authority or by participating in the hearing; and

(5) notification of the time and place of the hearing and notification of the manner in which and the time by which written responses to the application must be filed, in order to be considered by the court or responsible administrative authority. Written responses to the application must be filed within 15 days after service of the transferee's notice.

Sec. 5. [549.33] NO WAIVER; NO PENALTIES.

Subdivision 1. NO WAIVER. The provisions of sections 549.30 to 549.34 may not be waived.

Subd. 2. NO PENALTY. No payee who proposes to make a transfer of structured settlement payment rights shall incur a penalty, forfeit an application fee or other payment, or otherwise incur any liability to the proposed transferee based on the failure of the transfer to satisfy the conditions of section 549.31.

Sec. 6. [549.34] CONSTRUCTION.

Nothing contained in sections 549.30 to 549.34 may 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.

Sec. 7. EFFECTIVE DATE.

Sections 1 to 6 are effective August 1, 1999, and apply to structured settlement agreements entered into on or after August 1, 1999, and the transfer of structured settlement payment rights under a transfer agreement entered into on or after August 1, 1999.

Presented to the governor May 21, 1999

Signed by the governor May 24, 1999, 10:06 a.m.

CHAPTER 213—S.F.No. 1485

An act relating to professions; modifying provisions of the board of architecture, engineering, land surveying, landscape architecture, geoscience, and interior design relating to fees and continu-

New language is indicated by underline, deletions by strikeout.