

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 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.

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 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.

History: *1999 c 212 s 3*