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*