

1.1 **Senator Rosen from the Committee on Finance, to which was re-referred**

1.2 **S.F. No. 3636:** A bill for an act relating to civil law; amending process for and approval
 1.3 of transfer of structured settlement payment rights; requiring structured settlement purchase
 1.4 companies to register and provide a surety bond; requiring disclosures to payees; prohibiting
 1.5 certain practices; authorizing enforcement of prohibited practices and judicial sanctions;
 1.6 requiring judicial consideration of best interest factors; authorizing appointment of attorney
 1.7 evaluator; amending Minnesota Statutes 2020, section 549.30, subdivisions 1, 5, 6, 7, 9,
 1.8 13, 15, 17, by adding subdivisions; proposing coding for new law in Minnesota Statutes,
 1.9 chapter 549; repealing Minnesota Statutes 2020, sections 549.30, subdivision 3; 549.31;
 1.10 549.32; 549.33; 549.34.

1.11 Reports the same back with the recommendation that the bill be amended as follows:

1.12 Page 2, after line 6, insert:

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

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

1.19 Page 2, line 9, delete "5a" and insert "5b"

1.20 Page 2, line 25 after "party" insert "to the structured settlement"

1.21 Page 3, after line 4, insert:

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

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

1.29 Page 3, after line 8, insert:

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

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

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

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

2.6 Page 3, line 29, delete "filed" and insert "initiated by the filing of an application"

2.7 Page 4, line 14, before "judgment" insert "and" and delete ", finders' fees, commissions,
 2.8 and other"

2.9 Page 4, line 15, delete everything before the period

2.10 Page 4, after line 20, insert:

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

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

2.15 Page 6, line 31, delete "\$200" and insert "\$700"

2.16 Page 6, line 32, delete "\$115" and insert "\$200"

2.17 Page 7, delete lines 23 and 24

2.18 Page 7, line 25, delete "(7)" and insert "(6)"

2.19 Page 7, line 29, delete "(8)" and insert "(7)"

2.20 Page 7, line 30, after "by" insert "any" and delete "of" and insert "including, but not
 2.21 limited to,"

2.22 Page 8, line 1, delete "(9)" and insert "(8)"

2.23 Page 8, line 12, delete "(10)" and insert "(9)"

2.24 Page 8, line 20, delete "(11)" and insert "(10)"

2.25 Page 8, delete lines 24 to 28

2.26 Page 8, line 29, delete "(13)" and insert "(11)"

2.27 Page 8, delete line 31

2.28 Page 8, line 32, delete "(15)" and insert "(12)"

2.29 Page 8, line 34, delete the period and insert "; or"

3.1 Page 8, after line 34, insert:

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

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

3.6 (ii) at any unusual time, or at a time that the structured settlement purchase company
3.7 knows is inconvenient to the consumer. In the absence of the structured settlement purchase
3.8 company's knowledge of circumstances to the contrary, a time before 8:00 a.m. and after
3.9 9:00 p.m. local time at the consumer's location is inconvenient. This clause will not apply
3.10 to any payee, prospective payee, or person associated with the payee who has opted in and
3.11 agreed to allow the structured settlement purchase company to contact the person when
3.12 necessary; or

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

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

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

3.26 Page 9, line 1, delete "2" and insert "3"

3.27 Page 9, lines 4 and 13, delete "subdivision 1" and insert "this section"

3.28 Page 9, line 9, delete "(7)" and insert "(6)" and delete "(9) to (11)" and insert "(8) to
3.29 (10)"

3.30 Page 9, line 16, delete "and"

3.31 Page 9, line 19, delete the period and insert "; and"

3.32 Page 9, after line 19, insert:

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

4.2 Page 10, after line 9, insert:

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

4.5 Page 10, line 10, delete "(8)" and insert "(9)"

4.6 Page 10, line 12, delete "(9)" and insert "(10)"

4.7 Page 10, line 14, delete "(10)" and insert "(11)" and after "advice" insert "from an
4.8 attorney, certified public accountant, actuary, or other licensed professional adviser"

4.9 Page 10, line 16, after "rights" insert "". The notice must also contain: "It is prohibited
4.10 for us to refer you to a specific independent professional adviser. We may refer you to a
4.11 state or local referral service, bar association, legal aid, or any other entity unrelated to us
4.12 which assists people with locating independent professional advice, if requested""

4.13 Page 10, line 17, delete "(11)" and insert "(12)"

4.14 Page 10, line 22, before "(a)" insert

4.15 "Subdivision 1. **Conditions; approval.**"

4.16 Page 10, line 30, delete everything after "the" and insert "legal, tax, and financial
4.17 implications of the transfer and if the payee has knowingly declined"

4.18 Page 10, line 31, delete everything before "advice"

4.19 Page 11, line 7, after the comma insert "understanding of the terms of the agreement,"

4.20 Page 11, line 8, delete "loss" and insert "or losses"

4.21 Page 11, delete line 11

4.22 Page 11, line 12, delete "(4)" and insert "(3)"

4.23 Page 11, line 15, delete "(5)" and insert "(4)"

4.24 Page 11, line 17, delete "(6)" and insert "(5)"

4.25 Page 11, line 19, delete "(7)" and insert "(6)"

4.26 Page 11, after line 19, insert:

4.27 "Subd. 2. **Additional conditions for transfer of minor's structure settlement payment**
4.28 **rights.** No direct or indirect transfer of a minor's structured settlement payments rights by
4.29 a parent, conservator, or guardian shall be effective and no structured settlement obligor or

5.1 annuity issuer shall be required to make a payment directly or indirectly to any transferee
5.2 or assignee of structured settlement payment rights unless, in addition to the findings required
5.3 under subdivision 1, the court also finds, that:

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

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

5.9 Page 13, line 3, delete "a summary of:"

5.10 Page 13, line 4, delete "(i)"

5.11 Page 13, line 5, delete everything after the comma

5.12 Page 13, line 6, delete everything before "and"

5.13 Page 13, delete line 8, and insert a semicolon

5.14 Page 13, delete lines 9 to 16 and insert:

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

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

5.22 Page 13, line 17, delete "(6)" and insert "(8)"

5.23 Page 13, line 20, delete "(7)" and insert "(9)"

5.24 Page 13, line 27, after "ATTORNEY" insert "ADVISER"

5.25 Page 13, line 31 after the period, insert "The attorney may consult with a certified public
5.26 accountant, actuary, or other licensed professional adviser, if necessary."

5.27 Page 13, line 32, delete "\$1,500." and insert "\$2,000. The fee shall be deposited with
5.28 and disbursed to the attorney adviser by the court."

5.29 Page 14, line 3, after "parent" insert ", conservator,"

5.30 Page 14, after line 19, insert:

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

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

6.7 Page 15, after line 26, insert:

6.8 "Sec. 31. **APPROPRIATION.**

6.9 \$19,000 in fiscal year 2023 is appropriated from the general fund to the secretary of
 6.10 state for the purposes outlined in section 549.35. The base in fiscal years 2024 and 2025 is
 6.11 \$3,000."

6.12 Page 16, line 2, delete "17" and insert "22" and delete "19" and insert "24" and delete
 6.13 "25" and insert "30"

6.14 Renumber the sections in sequence

6.15 Amend the title as follows:

6.16 Page 1, line 7, after "evaluator" insert "; appropriating money"

6.17 Amend the title numbers accordingly

6.18 And when so amended the bill do pass. Amendments adopted. Report adopted.

Julie Rosen

6.19
 6.20 (Committee Chair)

6.21 May 4, 2022.....
 6.22 (Date of Committee recommendation)