
DIGEST

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SB 193 Reengrossed

2019 Regular Session

Morrish

Proposed law enacts the Louisiana Structured Settlement Protection Act.

Proposed law provides for definitions. Provides relative to the registration and renewal of a structured settlement purchase company. Requires transferees to be registered as a structured settlement purchase company with the secretary of state, through a form prescribed by the secretary of state. Provides that a structured settlement purchase company shall renew its registration annually. Requires a \$50,000.00 security bond, letter of credit, or cash bond, payable to the state of Louisiana, to serve as a source of recovery for payees with a judgment against the company.

Proposed law provides relative to prohibited acts by a transferee or structured settlement purchase company and an employee or representative of a transferee or structured settlement purchase company. Further provides that a payee may pursue a private action as a result of a violation of proposed law and a structured settlement purchase company may pursue a private action to enforce certain portions of proposed law. Such violation may result in the revocation or suspension of the registration of the structured settlement purchase company, as well as damages allowed by law.

Proposed law provides that a transferee must provide evidence to the court that he is registered to do business in the state as a structured settlement purchase company. Further provides that the transferee submit certain disclosures to the payee.

Proposed law provides that a transfer order signed by a Louisiana court of competent jurisdiction in accordance with proposed law shall constitute a qualified order under federal law. Further states that after July 1, 2020, a transfer order signed by a Louisiana court where the transferee is not a registered structured settlement purchase company shall not constitute a qualified order under federal law.

Proposed law provides that no transfer of structured settlement payment rights shall be effective unless approved in a final court order. Provides that the court must find that the transfer is in the best interest of payee, the payee has received independent professional advice regarding the transfer, and the transfer does not contravene any applicable statute, court order, or government authority.

Proposed law provides for effects of a transfer of structured settlement payment rights. Provides that transferee shall be liable to the structured settlement obligor and annuity issuer if transferee contravenes the terms of the structured settlement and for any other liability or costs arising out of compliance issues.

Proposed law provides that annuity issuer and structured settlement obligor may not be required to divide any periodic payment with payee and transferee.

Proposed law provides that an application for transfer under proposed law shall be brought in a court of general jurisdiction in the parish where the payee is domiciled. If payee is not domiciled in this state the application may be brought in the court that approved the structured settlement agreement.

Proposed law provides that all court costs associated with filing the application for approval of a transfer of structured settlement payment rights shall be paid by the transferee.

Proposed law provides that a timely hearing shall be held for approval of a transfer of structured settlement payment rights. The payee shall be present at hearings unless good cause is shown.

Proposed law provides that notice of the proposed transfer and application for authorization shall be served on all interested parties not less than 20 days prior to the scheduled hearing on any application of approval. Notice shall consist of:

- (1) A copy of the transferee's application.
- (2) A copy of the transfer agreement.
- (3) A copy of the disclosure statement required under the proposed law.
- (4) Payee's name, age, parish of domicile, and number and ages of each dependent.
- (5) A copy of the notice of payee's rights.
- (6) A summary of any prior transfers by payee to transferee and any prior transfers by payee to any person or entity other than transferee.

Proposed law provides that the provisions of the proposed law may not be waived by any payee. Further provides that all disputes on a transfer agreement signed in this state shall be litigated in this state.

Proposed law provides that no transfer of structured settlement payment rights shall extend to any payments that are life contingent, unless certain criteria is met by the transferee.

Proposed law repeals R.S. 9:2715, the present law providing relative to the transfer of structured settlement rights.

Effective July 1, 2020.

(Adds R.S. 9:2713-2713.9; Repeals R.S. 9:2715)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary A to the engrossed bill

1. Provides relative to definitions.
2. Provides relative to certain bond requirements and procedures for recovery of judgment.
3. Provides relative to certain prohibitions.
4. Provides relative to certain actions.
5. Makes technical changes.

Senate Floor Amendments to engrossed bill

1. Adds the word "Protection" to the title of the act which is now: the "Louisiana Structured Settlement Protection Act".
2. Changes the definitions of "independent professional advice", "interested party", "payee", and "structured settlement purchase company".
3. Replaces the term "structured settlement payments" with "structured settlement payment rights".
4. Specifies that the \$50,000.00 security bond required from a structured settlement purchase company may be satisfied by a letter of credit or a cash bond in the same amount.

5. Specifies when a Louisiana court's transfer order is or is not qualified under federal law after the effective date of proposed law.
6. Specifies that the transferee, within a three-day period, shall provide to the payee a notice of the payee's rights, in bold type, no smaller than 14 point fonts. Further specifies that such notice shall be included in court filings.
7. Adds that all court costs associated with filing the application for approval of a transfer of structured settlement payment rights shall be paid by the transferee.
8. Changes the effective date from governor's signature to July 1, 2020.
9. Makes technical corrections.

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Civil Law and Procedure to the reengrossed bill:

1. Make technical changes.