

RÉSUMÉ DIGEST

ACT 260 (SB 193)

2019 Regular Session

Morrish

Enacts the Louisiana Structured Settlement Protection Act.

New 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 security bond, letter of credit, or cash bond, payable to the state, to serve as a source of recovery for payees with a judgment against the company.

New 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 new law and a structured settlement purchase company may pursue a private action to enforce certain portions of new 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.

New 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.

New law provides that a transfer order signed by a Louisiana court of competent jurisdiction in accordance with new 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.

New 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.

New 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.

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

New law provides that an application for transfer under new 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.

New 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.

New 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.

New 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.

New 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.

New 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.

New law repeals R.S. 9:2715, the prior 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)