

2019 Regular Session

SENATE BILL NO. 193

BY SENATOR MORRISH

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

OBLIGATIONS. Enacts the Louisiana Structured Settlement Protection Act. (7/1/20)

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AN ACT

To enact R.S. 9:2713 through 2713.9 and to repeal R.S. 9:2715, relative to agreements; to provide relative to structured settlements; to enact the Louisiana Structured Settlement Protection Act; to provide certain definitions, terms, procedures, conditions, requirements, and effects; to provide relative to registration and transfer; to provide relative to the transfer of structured settlement payment rights; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 9:2713 through 2713.9 are hereby enacted to read as follows:

§2713. Short Title

This Section and Sections 2713.1 through 2713.9 of this Title shall be known and may be cited as the Louisiana Structured Settlement Protection Act.

§2713.1. Definitions

A. As used in this Section, the following terms shall mean:

(1) "Annuity issuer" means an insurer that has issued a contract to fund periodic payments under a structured settlement.

(2) "Assignee" means a person or entity acquiring or proposing to

1 acquire structured settlement payments from a structured settlement purchase
2 company or transferee after, or concurrently with, the transfer by the payee to
3 the structured settlement purchase company or transferee.

4 (3) "Dependents" include a payee's spouse and minor children and all
5 other persons for whom the payee is legally obligated to provide support,
6 including alimony.

7 (4) "Discounted present value" means the present value of future
8 payments determined by discounting such payments to the present using the
9 most recently published Applicable Federal Rate for determining the present
10 value of an annuity, as issued by the United States Internal Revenue Service.

11 (5) "Gross advance amount" means the sum payable to the payee or for
12 the payee's account as consideration for a transfer of structured settlement
13 payment rights, before any reductions for transfer expenses or other deductions
14 to be made from such consideration.

15 (6) "Independent professional advice" means advice of an attorney,
16 certified public accountant, actuary, or other licensed professional adviser
17 whose compensation is not affected by whether a transfer occurs and both of the
18 following apply:

19 (a) Is engaged by a payee to render advice concerning a transfer of
20 structured settlement payment rights.

21 (b) Is not affiliated with or compensated by the transferee.

22 (7) "Interested party" means, with respect to any structured settlement,
23 the payee, any beneficiary irrevocably designated under the annuity contract
24 to receive payments following the payee's death, the annuity issuer, the
25 structured settlement obligor, and any other party to the structured settlement
26 that has continuing rights or obligations to receive or make payments under the
27 structured settlement.

28 (8) "Net advance amount" means the gross advance amount, less the
29 aggregate amount of the actual and estimated transfer expenses required to be

1 disclosed under R.S. 9:2713.5(5).

2 (9) "Payee" means an individual who is receiving tax-free payments
3 under a structured settlement and proposes to make a transfer of payment
4 rights thereunder.

5 (10) "Periodic payments" includes both recurring payments and
6 scheduled future lump-sum payments.

7 (11) "Qualified assignment agreement" means an agreement providing
8 for a qualified assignment within the meaning of Section 130 of the Internal
9 Revenue Code, United States Code Title 26, as amended.

10 (12) "Renewal date" means the date on which a registered structured
11 settlement purchase company is required to have renewed their registration
12 under this statute, which date shall be one year after the initial registration or
13 any subsequent renewal.

14 (13) "Settled claim" means the tort claim resolved by a structured
15 settlement.

16 (14) "Structured settlement" means an arrangement for periodic
17 payment of damages for personal injuries or sickness established by settlement
18 or judgment in resolution of a tort claim.

19 (15) "Structured settlement agreement" means the agreement, judgment,
20 stipulation, or release embodying the terms of a structured settlement.

21 (16) "Structured settlement obligor" means, with respect to any
22 structured settlement, the party that has the continuing obligation to make
23 periodic payments to the payee under a structured settlement agreement or
24 qualified assignment agreement.

25 (17) "Structured settlement payment rights" means rights to receive
26 periodic payments under a structured settlement, whether from the structured
27 settlement obligor or the annuity issuer, where the payee is domiciled in the
28 state or the structured settlement agreement was approved by a court in the
29 state.

1 **(18) "Structured settlement purchase company" means a party that acts**
2 **as a transferee in this state and that is registered with the secretary of state**
3 **pursuant to R.S. 9:2713.2.**

4 **(19) "Structured settlement transfer proceeding" means a court**
5 **proceeding filed by a structured settlement purchase company seeking court**
6 **approval of a transfer in accordance with the Louisiana Structured Settlement**
7 **Protection Act.**

8 **(20) "Terms of the structured settlement" include, with respect to any**
9 **structured settlement, the terms of the structured settlement agreement, the**
10 **annuity contract, any qualified assignment agreement, and any order or other**
11 **approval of any court in this state.**

12 **(21) "Transfer" means any sale, assignment, pledge, hypothecation, or**
13 **other alienation or encumbrance of structured settlement payment rights made**
14 **by a payee for consideration. The term "transfer" does not include the creation**
15 **or perfection of a security interest in structured settlement payment rights**
16 **under a blanket security agreement entered into with an insured depository**
17 **institution, in the absence of any action to redirect the structured settlement**
18 **payment rights to such insured depository institution, or an agent or successor**
19 **in interest thereof, or otherwise to enforce such blanket security interest against**
20 **the structured settlement payment rights.**

21 **(22) "Transfer agreement" means the agreement providing for a transfer**
22 **of structured settlement payment rights.**

23 **(23) "Transfer expenses" means all expenses of a transfer that are**
24 **required under the transfer agreement to be paid by the payee or deducted**
25 **from the gross advance amount, including, without limitation, court filing fees,**
26 **attorney fees, escrow fees, lien recordation fees, judgment and lien search fees,**
27 **finder's fees, commissions, and other payments to a broker or other**
28 **intermediary. "Transfer expenses" shall not include preexisting obligations of**
29 **the payee payable for the payee's account from the proceeds of a transfer.**

1 **(24) "Transfer order" means an order approving a transfer in**
2 **accordance with R. S. 9:2713.6.**

3 **(25) "Transferee" means a party acquiring or proposing to acquire**
4 **structured settlement payment rights through a transfer.**

5 **§2713.2. Registration; renewal**

6 **A. A person or entity shall not act as a transferee, attempt to acquire**
7 **structured settlement payment rights through a transfer from a payee who**
8 **resides in this state, or file a structured settlement transfer proceeding in this**
9 **state unless the person or entity has registered with the secretary of state to do**
10 **business in this state.**

11 **B. An applicant's initial registration application shall be submitted on**
12 **a form prescribed by the secretary of state, and shall include a sworn**
13 **certification by an owner, officer, director, or manager of the applicant, if the**
14 **applicant is an entity, or by the individual applicant if the applicant is an**
15 **individual, certifying that:**

16 **(1) The applicant has secured a surety bond or has been issued a letter**
17 **of credit or has posted a cash bond in the amount of fifty thousand dollars,**
18 **relative to its business as a structured settlement purchase company in this**
19 **state. The surety bond, letter of credit, or cash bond is intended to protect**
20 **payees who do business with a structured settlement purchase company.**

21 **(a) The bond shall be payable to the state of Louisiana.**

22 **(b) The bond, letter of credit, or cash bond shall be effective for at least**
23 **the time period during which the applicant's registration filed with the**
24 **secretary of state is effective and the bond, letter of credit, or cash bond shall**
25 **be renewed each year when the registration of the applicant is renewed.**

26 **(c) The applicant shall submit to the secretary of state a copy of the bond,**
27 **letter of credit, or cash bond with its registration or renewal application.**

28 **(d) The bond, letter of credit, or cash bond is intended to ensure that the**
29 **structured settlement purchase company will comply with the provisions of this**

1 Act relative to the payee and perform its obligations to payee under this Act,
2 and to provide a source for recovery for the payee should a payee recover a
3 judgment against a structured settlement purchase company for a violation of
4 this Act.

5 (e) Within ten days after a judgment is secured against a structured
6 settlement purchase company by a payee, the structured settlement purchase
7 company shall file a notice with the secretary of state and the surety providing
8 a copy of the judgment and the name and address of the judgment creditor, and
9 include the status of the matter, including whether the judgment will be
10 appealed, or has been paid or satisfied.

11 (f) The liability of the surety under the bond shall not be affected by any
12 breach of contract, breach of warranty, failure to pay a premium or other act
13 or omission of the bonded structured settlement purchase company, or by any
14 insolvency or bankruptcy of the structured settlement purchase company.

15 (g) Neither the bonded structured settlement purchase company nor the
16 surety shall cancel or modify the bond during the term for which it is issued,
17 except by filing a written notice with the secretary of state at least twenty days
18 prior to the effective date of such cancellation or modification.

19 (h) In the event of a cancellation of the bond, the registration of the
20 structured settlement purchase company shall automatically expire unless a
21 new surety bond, letter of credit, or cash bond, which complies with this
22 Subsection, is filed with the secretary of state. The cancellation or modification
23 of a bond does not affect any liability of the bonded surety company incurred
24 before cancellation or modification of the bond.

25 (2) The applicant will comply with all of the provisions of the Louisiana
26 Structured Settlement Protection Act when acting as a structured settlement
27 purchase company and filing structured settlement transfer proceedings in this
28 state.

29 C. An assignee is not required to register as a structured settlement

1 purchase company in order to acquire structured settlement payment rights
2 from a transferee, structured settlement purchase company, or another
3 assignee, or to take a security interest in structured settlement payment rights
4 from a transferee, structured settlement purchase company, or another
5 assignee, in a transaction where the assignee does not act as a structured
6 settlement purchase company or as a transferee under the Louisiana Structured
7 Settlement Act.

8 D. An employee of a structured settlement purchase company, if acting
9 on behalf of the employer structured settlement purchase company in
10 connection with a transfer, is not required to be registered.

11 E. A registered structured settlement purchase company shall renew its
12 registration annually, on or before the renewal date, and provide the
13 certifications set forth in Subsection B of this Section.

14 §2713.3. Prohibited Acts

15 A. A transferee or structured settlement purchase company, and an
16 employee or representative of a transferee or structured settlement purchase
17 company, shall not engage in any of the following actions:

18 (1) Pursue or complete a transfer with a payee without complying with
19 this Act.

20 (2) Refuse or fail to fund a transfer, following court approval of the
21 transfer.

22 (3) Acquire structured settlement payment rights from a payee without
23 complying with the Louisiana Structured Settlement Protection Act and
24 securing court approval of the transfer in accordance with the Act.

25 (4) Intentionally file a structured settlement transfer proceeding in any
26 court other than the court specified in R. S. 9:2713.8(A), unless the transferee
27 is required to file in some other court by other applicable law.

28 (5) Pay a commission or finder's fee to a person or entity for facilitating
29 or arranging a structured settlement transfer with a payee, unless such person

1 or entity is registered as a structured settlement purchase company or is an
2 employee of a registered structured settlement purchase company. A structured
3 settlement purchase company may pay to third parties routine transfer
4 expenses, such as court filing fees, escrow fees, lien recordation fees, judgment
5 and lien search fees, attorney fees, and other similar types of fees relating to a
6 transfer. A structured settlement purchase company may pay a reasonable
7 referral fee to an attorney, certified public accountant, actuary, licensed
8 insurance agent, or other licensed professional advisor in connection with a
9 transfer.

10 (6) Intentionally advertise materially false or misleading information
11 regarding its products or services.

12 (7) Attempt to coerce, bribe, or intimidate any payee seeking to transfer
13 structured settlement payment rights.

14 (8) Attempt to defraud a payee or any party to a structured settlement
15 transfer or any interested party in a structured settlement transfer proceeding
16 by means of forgery or false identification.

17 (9) Intervene in a pending structured settlement transfer proceeding, if
18 the transferee or structured settlement purchase company is not a party to such
19 proceeding or an interested party relative to the proposed transfer which is the
20 subject of the pending structured settlement transfer proceeding. However, this
21 shall not preclude a structured settlement purchase company from intervening
22 in a pending structured settlement transfer proceeding where the payee has
23 signed a transfer agreement with the structured settlement purchase company
24 within sixty days prior to the filing of the pending structured settlement transfer
25 proceeding, and the structured settlement purchase company who filed the
26 pending structured settlement transfer proceeding violated any of the
27 provisions of the Louisiana Structured Settlement Protection Act in connection
28 with the proposed transfer that is the subject of the pending structured
29 settlement transfer proceeding.

1 (10) Knowingly contact a payee who has signed a transfer agreement and
2 is pursuing a proposed transfer with another structured settlement purchase
3 company for the purpose of inducing the payee into canceling the proposed
4 transfer or transfer agreement with the other structured settlement purchase
5 company, if a structured settlement transfer proceeding has been filed by the
6 other structured settlement purchase company and is pending. However, if no
7 hearing has been held in the pending structured settlement transfer proceeding
8 within ninety days of the filing of same, this Paragraph shall not apply.

9 (11) Fail to dismiss a pending structured settlement transfer proceeding
10 at the request of the payee. A dismissal of a structured settlement transfer
11 proceeding under this Subsection shall not exempt a person who violates this
12 Section from any liability under this Section.

13 B. A payee may pursue a private action as a result of a violation of this
14 Section, and may recover all damages and pursue all rights and remedies to
15 which the payee may be entitled under the Louisiana Structured Settlement
16 Protection Act, the Unfair Trade Practices and Consumer Protection Law, or
17 other applicable law.

18 C. A structured settlement purchase company may pursue a private
19 action to enforce Paragraphs (A)(4), (A)(7), (A)(9), (A)(10), and (A)(11) of this
20 Section as a result of a violation of such Paragraphs, and may recover all
21 damages and pursue all remedies to which the structured settlement purchase
22 company may be entitled under the Louisiana Structured Settlement Protection
23 Act or other applicable law.

24 D. If a court determines that a structured settlement purchase company
25 or transferee is in violation of this Section, the court may revoke the registration
26 of the structured settlement purchase company, suspend the registration of the
27 structured settlement purchase company for a period of time to be determined
28 at the discretion of the court, or may enjoin the structured settlement purchase
29 company or transferee from filing new structured settlement transfer

1 proceedings or pursuing transfers in this state.

2 §2713.4. Authority to pursue and complete transfers

3 A. At the time the transfer order is to be signed by the court, all
4 transferees must provide evidence to the court in which a structured settlement
5 transfer proceeding is filed that the transferee is registered to do business in this
6 state as a structured settlement purchase company.

7 B. A transfer order signed by a Louisiana court of competent jurisdiction
8 in accordance with this Act shall constitute a qualified order under 26 U.S.C.
9 5891. A transfer order signed by a Louisiana court of competent jurisdiction
10 after the effective date of this Act, where the transferee is not a registered
11 structured settlement purchase company at the time the transfer order is signed
12 shall not constitute a qualified order under 26 U.S.C.5891.

13 §2713.5. Required disclosures to payee

14 A. Not less than three days prior to the date on which a payee signs a
15 transfer agreement, the transferee shall provide to the payee a separate
16 disclosure statement, in bold type no smaller than fourteen point font, setting
17 forth the following:

18 (1) The amounts and due dates of the structured settlement payments to
19 be transferred.

20 (2) The aggregate amount of such payments.

21 (3) The discounted present value of the payments to be transferred,
22 which shall be identified as the "calculation of current value of the transferred
23 structured settlement payments under federal standards for valuing annuities",
24 and the amount of the Applicable Federal Rate used in calculating such
25 discounted present value.

26 (4) The gross advance amount.

27 (5) An itemized listing of all applicable transfer expenses, other than
28 attorney fees and related disbursements, payable in connection with the
29 transferee's application for approval of the transfer, and the transferee's best

1 estimate of the amount of any such fees and disbursements.

2 (6) The effective annual interest rate, which must be disclosed in a
3 statement in the following form: "On the basis of the net amount that you will
4 receive from us and the amounts and timing of the structured settlement
5 payments that you are transferring to us, you will, in effect be paying interest
6 to us at a rate of _____ percent per year".

7 (7) The net advance amount.

8 (8) The amount of any penalties or liquidated damages payable by the
9 payee in the event of any breach of the transfer agreement by the payee.

10 B. Not less than three days prior to the date on which a payee signs a
11 transfer agreement, the transferee shall provide to the payee a separate note of
12 payee's rights, in bold type, no smaller than fourteen point font, setting forth the
13 following:

14 (1) The payee has the right to cancel the transfer agreement, without
15 penalty or further obligation, until the transfer is approved by the court.

16 (2) The payee is required to seek and receive independent professional
17 advice regarding a transfer of structured settlement payment rights.

18 (3) The payee has the right to seek out and consider additional offers for
19 transferring the structured settlement payments and should do so.

20 §2713.6. Approval of transfers of structured settlement payment rights

21 A. No direct or indirect transfer of structured settlement payment rights
22 shall be effective, and no structured settlement obligor or annuity issuer shall
23 be required to make any payment directly or indirectly to any transferee or
24 assignee of structured settlement payment rights, unless the transfer has been
25 approved in advance in a final court order based on express findings by such
26 court that all of the following apply:

27 (1) The transfer is in the best interest of the payee, taking into account
28 the welfare and support of the payee's dependents.

29 (2) The payee has received independent professional advice regarding the

1 transfer.

2 (3) The transfer does not contravene any applicable statute or the order
3 of any court or other government authority.

4 §2713.7. Effects of transfer of structured settlement payment rights

5 A. Following a transfer of structured settlement payment rights, the
6 structured settlement obligor and the annuity issuer may rely on the court order
7 approving the transfer in redirecting periodic payments to an assignee or
8 transferee in accordance with the order approving the transfer and shall, as to
9 all parties except the transferee or an assignee designated by the transferee, be
10 discharged and released from any and all liability for the redirected payments.
11 Such discharge and release shall not be affected by the failure of any party to
12 the transfer to comply with the Louisiana Structured Settlement Protection Act
13 or with the court order approving the transfer.

14 B. The transferee shall be liable to the structured settlement obligor and
15 the annuity issuer:

16 (1) If the transfer contravenes the terms of the structured settlement, for
17 any taxes incurred by the structured settlement obligor or annuity issuer as a
18 consequence of the transfer.

19 (2) For any other liabilities or costs, including reasonable costs and
20 attorney fees, arising from compliance by the structured settlement obligor or
21 annuity issuer with the court order approving the transfer, or from the failure
22 of any party to the transfer to comply with the Louisiana Structured Settlement
23 Protection Act.

24 C. Neither the annuity issuer nor the structured settlement obligor may
25 be required to divide any periodic payment between the payee and any
26 transferee or assignee or between two or more transferees or assignees.

27 D. Any further transfer of structured settlement payment rights by the
28 payee may be made only after compliance with all of the requirements of this
29 Act.

1 **§2713.8. Procedure for approval of transfers**

2 **A. An application under this Act for approval of a transfer of structured**
3 **settlement payment rights shall be made by the transferee. The application shall**
4 **be brought in a court of general jurisdiction in the parish in which the payee is**
5 **domiciled, except that if the payee is not domiciled in this state, the application**
6 **may be brought in the court in this state that approved the structured**
7 **settlement agreement.**

8 **B. All court costs associated with filing the application for approval of**
9 **a transfer of structured settlement payment rights shall be paid by the**
10 **transferee.**

11 **C. A timely hearing shall be held on an application for approval of a**
12 **transfer of structured settlement payment rights. The payee shall appear in**
13 **person at the hearing, unless the court determines that good cause exists to**
14 **excuse the payee from appearing in person.**

15 **D. Not less than twenty days prior to the scheduled hearing on any**
16 **application for approval of a transfer of structured settlement payment rights**
17 **under R.S. 9:2713.6, the transferee shall file with the court and serve on all**
18 **interested parties a notice of the proposed transfer and the application for**
19 **authorization. Such notice and application shall include all of the following:**

20 **(1) A copy of the transferee's application.**

21 **(2) A copy of the transfer agreement.**

22 **(3) A copy of the disclosure statement required under R.S. 9:2713.5.**

23 **(4) The payee's name, age, parish of domicile, and the number and ages**
24 **of each of the payee's dependents.**

25 **(5) A copy of the notice of payee's rights required under R.S. 9:2713.5.**

26 **(6) A summary of:**

27 **(a) Any prior transfers by the payee to the transferee or an affiliate, or**
28 **through the transferee or an affiliate to an assignee, within the four years**
29 **preceding the date of the transfer agreement and any proposed transfers by the**

1 payee to the transferee or an affiliate, or through the transferee or an affiliate,
2 applications for approval of which were denied within the two years preceding
3 the date of the transfer agreement.

4 (b) Any prior transfers by the payee to any person or entity other than
5 the transferee or an affiliate or an assignee of the transferee or an affiliate
6 within the three years preceding the date of the transfer agreement, and any
7 prior proposed transfers by the payee to any person or entity other than the
8 transferee or an affiliate or an assignee of a transferee or affiliate, applications
9 for approval of which were denied within the one year preceding the date of the
10 current transfer agreement, to the extent that the transfers or proposed
11 transfers have been disclosed to the transferee by the payee in writing or
12 otherwise are actually known to the transferee.

13 (7) Notification that any interested party is entitled to support, oppose
14 or otherwise respond to the transferee's application, either in person or by
15 counsel, by submitting written comments to the court or by participating in the
16 hearing.

17 (8) Notification of the time and place of the hearing and notification of
18 the manner in which and the date by which written responses to the application
19 must be filed, which date shall be not less than five days prior to the hearing, in
20 order to be considered by the court.

21 §2713.9. General provisions; construction

22 A. The provisions of this Act may not be waived by any payee.

23 B. Any transfer agreement entered into on or after the effective date of
24 this Act by a payee who is domiciled in this state shall provide that disputes
25 under such transfer agreement, including any claims that the payee has
26 breached the agreement, shall be determined in and under the laws of the state
27 of Louisiana. No such transfer agreement shall authorize the transferee or any
28 other party to confess judgment or consent to entry of judgment against the
29 payee.

1 C. No transfer of structured settlement payment rights shall extend to
2 any payments that are life contingent unless, prior to the date on which the
3 payee signs the transfer agreement, the transferee has established and has
4 agreed to maintain procedures reasonably satisfactory to the annuity issuer and
5 the structured settlement obligor for periodically confirming the payee's
6 survival and giving the annuity issuer and the structured settlement obligor
7 prompt written notice in the event of the payee's death.

8 D. If the payee cancels a transfer agreement, or if the transfer agreement
9 otherwise terminates, after an application for approval of a transfer of
10 structured settlement payment rights has been filed and before it has been
11 granted or denied, the transferee shall promptly request dismissal of the
12 application.

13 E. No payee who proposes to make a transfer of structured settlement
14 payment rights shall incur any penalty, forfeit any application fee or other
15 payment, or otherwise incur any liability to the proposed transferee or any
16 assignee based on any failure of such transfer to satisfy the conditions of this
17 Act.

18 F. Nothing contained in this Act shall be construed to authorize any
19 transfer of structured settlement payment rights in contravention of any
20 applicable law or to imply that any transfer under a transfer agreement entered
21 into prior to the effective date of this Act is valid or invalid.

22 G. The compliance with the requirements set forth in R.S. 9:2713.5 and
23 fulfillment of the conditions set forth in R.S. 9:2713.6 shall be solely the
24 responsibility of the transferee in any transfer of structured settlement payment
25 rights, and neither the structured settlement obligor nor the annuity issuer shall
26 bear any responsibility for, or any liability arising from, noncompliance with
27 such requirements or failure to fulfill such conditions.

28 Section 2. R.S. 9:2715 is hereby repealed.

29 Section 3. This Act shall become effective July 1, 2020.

The original instrument was prepared by Xavier Alexander. The following digest, which does not constitute a part of the legislative instrument, was prepared by Ann S. Brown.

DIGEST

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 judgement 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.