

2020 Regular Session

SENATE CONCURRENT RESOLUTION NO. 66

BY SENATOR MCMATH

OBLIGATIONS. Suspends the provisions of Act 260 of the 2019 Regular Session relative to structured settlements.

1 A CONCURRENT RESOLUTION

2 To suspend until July 1, 2021, the provisions of Act 260 of the 2019 Regular Session of the
3 Louisiana Legislature which enacts R.S. 9:2713 through 2713.9 and repeals R.S.
4 9:2715, relative to structured settlements.

5 THEREFORE, BE IT RESOLVED that the Legislature of Louisiana hereby suspends
6 the provisions of Act 260 of the 2019 Regular Session of the Louisiana Legislature which
7 enacts R.S. 9:2713 through 2713.9 and repeals R.S. 9:2715, relative to structured
8 settlements.

9 BE IT FURTHER RESOLVED that this suspension shall become effective upon
10 adoption of this Resolution and shall extend through June 30, 2021.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Jerry J. Guillot.

DIGEST

SCR 66 Original

2020 Regular Session

McMath

Act 260 of the 2019 R.S., effective July 1, 2020, enacts the Louisiana Structured Settlement Protection Act.

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.

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 the 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.

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.

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 the 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.

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 the transferee contravenes the terms of the structured settlement and for any other liability or costs arising out of compliance issues.

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

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.

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.

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.

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 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 a payee to a transferee and any prior transfers by a payee to any person or entity other than the transferee.

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.

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.

Repeals R.S. 9:2715, the prior law relative to the transfer of structured settlement rights.

Proposed resolution suspends the provisions of Act 260 of the 2019 R.S. until July 1, 2021.