

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 Act. (gov sig)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17

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 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 shall be known and may be cited as the Louisiana Structured Settlement 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 (7) "Interested party" means, with respect to any structured settlement,
18 the payee, any beneficiary irrevocably designated under the annuity contract
19 to receive payments following the payee's death, the annuity issuer, the
20 structured settlement obligor, any party to the structured settlement that has
21 continuing obligations to make payments under the structured settlement, and
22 any person who has continuing rights or obligations relative to the payments
23 that are the subject of a transfer that is the subject of a structured settlement
24 transfer proceeding.

25 (8) "Net advance amount" means the gross advance amount, less the
26 aggregate amount of the actual and estimated transfer expenses required to be
27 disclosed under R.S. 2713.5(E).

28 (9) "Payee" means an individual who is receiving tax free payments
29 under a structured settlement and proposes to make a transfer to a transferee

1 or structured settlement purchase company of structured settlement payments.

2 (10) "Periodic payments" includes both recurring payments and
3 scheduled future lump sum payments.

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

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

11 (13) "Settled claim" means the tort claim resolved by a structured
12 settlement.

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

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

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

22 (17) "Structured settlement payments" means periodic payments due
23 under a structured settlement.

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

29 (19) "Structured settlement purchase company" means a person that

1 acts as a transferee in this state and who is registered with the secretary of state
2 pursuant to R.S. 13:2713.2.

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

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

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

20 (23) "Transfer agreement" means the agreement providing for a transfer
21 of structured settlement payments.

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

29 (25) "Transfer order" means an order approving a transfer in

1 accordance with Section 2713.6 of this Act.

2 (26) "Transferee" means a party acquiring or proposing to acquire
3 structured settlement payments through a transfer.

4 §2713.2. Registration; renewal

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

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

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

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

21 (b) The bond shall be effective for at least the time period during which
22 the applicant's registration with the secretary of state is effective and the bond
23 must be renewed each year when the registration of the applicant is renewed.

24 (c) The applicant shall submit to the secretary of state a copy of the bond
25 with its registration or renewal application.

26 (d) The bond is intended to ensure that the structured settlement
27 purchase company will comply with the provisions of this Act relative to the
28 payee and perform its obligations to payee under this Act, and to provide a
29 source for recovery for the payee should a payee recover a judgment against a

1 structured settlement purchase company for a violation of this Act.

2 (e) Within ten days after a judgment is secured against a structured
3 settlement purchase company by a payee, the structured settlement purchase
4 company shall provide notice to the secretary of state and the surety providing
5 a copy of the judgment and the name and address of the judgment creditor, and
6 include the status of the matter, including whether the judgment will be
7 appealed, or has been paid or satisfied, such that the secretary may provide
8 information regarding the bond to the judgment creditor.

9 (f) Once the judgment is final and no longer subject to appeal, and if the
10 judgment has not been paid or satisfied within thirty days after the judgment
11 has become final, the secretary of state shall notify the surety company to pay
12 the judgment, up to the amount of the bond, by making payment to the
13 judgment creditor, and providing evidence to the secretary of state that
14 payment has been made to the judgment creditor in the lesser of the amount of
15 the judgment or the amount of the bond.

16 (g) The liability of the surety under the bond shall not be affected by any
17 breach of contract, breach of warranty, failure to pay a premium or other act
18 or omission of the bonded structured settlement purchase company, or by any
19 insolvency or bankruptcy of the structured settlement purchase company.

20 (h) Neither the bonded structured settlement purchase company nor the
21 surety shall cancel or modify the bond during the term for which it is issued,
22 except with written notice to the secretary of state at least twenty days prior to
23 the effective date of such cancellation or modification.

24 (i) In the event of a cancellation of the bond, the registration of the
25 structured settlement purchase company shall automatically expire unless a
26 new surety bond, letter of credit, or cash bond, which complies with this
27 Subsection, is submitted to the secretary of state. The cancellation or
28 modification of a bond does not affect any liability of the bonded surety
29 company incurred before cancellation or modification of the bond.

1 (j) In lieu of a surety bond, a structured settlement purchase company
2 may provide a letter of credit or post a cash bond in the amount of fifty
3 thousand dollars to provide the same type or protection to a payee as provided
4 by the surety bond.

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

8 C. An assignee is not required to register as a structured settlement
9 purchase company in order to acquire structured settlement payments from a
10 transferee, structured settlement purchase company, or another assignee, or to
11 take a security interest in structured settlement payments from a transferee,
12 structured settlement purchase company, or another assignee, in a transaction
13 where the assignee does not act as a structured settlement purchase company
14 or as a transferee under the Louisiana Structured Settlement Act.

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

18 E. A registered structured settlement purchase company must renew its
19 registration annually, on or before the renewal date, and provide the
20 certifications set forth in Subsection B of this Section.

21 §2713.3. Prohibited Acts

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

25 (1) Pursue or complete a transfer with a payee without complying with
26 this Act.

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

29 (3) Acquire structured settlement payments from the payee without

1 complying with the Louisiana Structured Settlement Act and securing court
2 approval of the transfer in accordance with the Act.

3 (4) Intentionally file a structured settlement transfer proceeding in any
4 court other than the court specified in Section 2713.8(A), unless the transferee
5 is required to file in some other court by other applicable law.

6 (5) Pay a commission or finders fee to a person or entity for facilitating
7 or arranging a structured settlement transfer with a payee, unless such person
8 or entity is registered as a structured settlement purchase company or is an
9 employee of a registered structured settlement purchase company. A structured
10 settlement purchase company may pay to third parties routine transfer
11 expenses, such as court filing fees, escrow fees, lien recordation fees, judgment
12 and lien search fees, attorney fees, and other similar type of fees relating to a
13 transfer. A structured settlement purchase company may pay a reasonable
14 referral fee to an attorney, certified public accountant, actuary, licensed
15 insurance agent, or other licensed professional advisor in connection with a
16 transfer.

17 (6) Intentionally advertise materially false or misleading information
18 regarding its products or services.

19 (7) Attempt to coerce, bribe, or intimidate any payee seeking to transfer
20 structured settlement payments.

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

24 (9) Intervene in a pending structured settlement transfer proceeding, if
25 the transferee or structured settlement purchase company is not a party to such
26 proceeding or an interested party relative to the proposed transfer which is the
27 subject of the pending structured settlement transfer proceeding. However, this
28 shall not preclude a structured settlement purchase company from intervening
29 in a pending structured settlement transfer proceeding where the payee has

1 signed a transfer agreement with the intervening structured settlement
2 purchase company within sixty days prior to the filing of the pending structured
3 settlement transfer proceeding, and the intervening structured settlement
4 purchase company who filed the pending structured settlement transfer
5 proceeding violated any of the provisions of the Louisiana Structured
6 Settlement Act in connection with the proposed transfer that is the subject of
7 the pending structured settlement transfer proceeding.

8 (10) Knowingly contact a payee who has signed a transfer agreement and
9 is pursuing a proposed transfer with another structured settlement purchase
10 company for the purpose of inducing the payee into canceling the proposed
11 transfer or transfer agreement with the other structured settlement purchase
12 company, if a structured settlement transfer proceeding has been filed by the
13 other structured settlement purchase company and is pending. However, if no
14 hearing has been held in the pending structured settlement transfer proceeding
15 within ninety days of the filing of same, this paragraph shall not apply.

16 (11) Refusing to dismiss a pending structured settlement transfer
17 proceeding at the request of the payee. A dismissal of a structured settlement
18 proceeding under this Subsection shall not exempt a person who violates this
19 Section from any liability under this Section.

20 B. A payee may pursue a private action as a result of a violation of this
21 Section, and may recover all damages and pursue all rights and remedies to
22 which the payee may be entitled under the Louisiana Structured Settlement Act,
23 the Louisiana Unfair Trade Practices Act, or other applicable law.

24 C. A structured settlement purchase company may pursue a private
25 action to enforce Subsections 2713.3(A)(4), 2713.3(A)(7), 2713.3(A)(9), and
26 2713.3(A)(10) of this Section as a result of a violation of such Subsections, and
27 may recover all damages and pursue all remedies to which the structured
28 settlement purchase company may be entitled under the Louisiana Structured
29 Settlement Act or other applicable law.

1 D. In any action filed in violation of this Section, if a court determines
2 that a structured settlement purchase company or transferee is in violation of
3 this Section, the court may revoke the registration of the structured settlement
4 purchase company, suspend the registration of the structured settlement
5 purchase company for a period of time to be determined at the discretion of the
6 court, or may enjoin the structured settlement purchase company or transferee
7 from filing new structured settlement transfer proceedings or pursuing
8 transfers in this state.

9 §2713.4. Authority to pursue and complete transfers

10 A. A payee may file an action to have a transfer order vacated in the
11 court that signed the transfer order within two years of the date the transfer
12 order was signed if the transferee was not registered with the secretary of state
13 at the time the transfer order was signed by the court. A payee may seek other
14 remedies, as provided by Subsection 2713.4(A) as a result of the transferee not
15 being registered as a structured settlement purchase company at the time the
16 transfer order was signed but may not vacate the transfer order. An annuity
17 issuer or structured settlement obligor shall not have any obligation or
18 responsibility to ensure that a transferee is registered to do business with the
19 state as a structured settlement purchase company and shall have no liability
20 to a payee who seeks to vacate a transfer order under Subsection 2713.4(A),
21 including for any structured settlement payments made to a transferee or
22 assignee in accordance with a transfer order prior to the date that the annuity
23 issuer or structured settlement obligor receives actual notice that a transfer
24 order has been vacated.

25 B. All transferees must provide evidence to the court in which an
26 application for court approval of a transfer is filed under the Louisiana
27 Structured Settlement Act. The evidence must show that the transferee is
28 registered to do business in this state as a structured settlement purchase
29 company at the time the transfer order is signed by the court.

1 §2713.5. Required disclosures to payee

2 Not less than three days prior to the date on which a payee signs a
3 transfer agreement, the transferee shall provide to the payee a separate
4 disclosure statement, in bold type no smaller than fourteen point font, setting
5 forth the following:

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

8 (2) The aggregate amount of such payments.

9 (3) The discounted present value of the payments to be transferred,
10 which shall be identified as the "calculation of current value of the transferred
11 structured settlement payments under federal standards for valuing annuities",
12 and the amount of the Applicable Federal Rate used in calculating such
13 discounted present value.

14 (4) The gross advance amount.

15 (5) An itemized listing of all applicable transfer expenses, other than
16 attorney fees and related disbursements, payable in connection with the
17 transferee's application for approval of the transfer, and the transferee's best
18 estimate of the amount of any such fees and disbursements.

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

24 (7) The net advance amount.

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

27 (9) That the payee has the right to cancel the transfer agreement, without
28 penalty or further obligation, until the transfer is approved by the court.

29 (10) That the payee has the right to seek and receive independent

1 professional advice regarding the proposed transfer and should consider doing
2 so before agreeing to transfer any structured settlement payment rights.

3 (11) The payee is entitled to seek out and consider additional offers for
4 transferring the structured settlement payments and should do so.

5 §2713.6. Approval of transfers of structured settlement payment rights

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

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

14 (2) The payee has been advised in writing by the transferee to seek
15 independent professional advice regarding the transfer, and has either received
16 such advice or knowingly waived in writing the opportunity to seek and receive
17 such advice.

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

20 §2713.7. Effects of transfer of structured settlement payment rights

21 A. Following a transfer of structured settlement payment rights, the
22 structured settlement obligor and the annuity issuer may rely on the court order
23 approving the transfer in redirecting periodic payments to an assignee or
24 transferee in accordance with the order approving the transfer and shall, as to
25 all parties except the transferee or an assignee designated by the transferee, be
26 discharged and released from any and all liability for the redirected payments.
27 Such discharge and release shall not be affected by the failure of any party to
28 the transfer to comply with the Louisiana Structured Settlement Act or with the
29 court order approving the transfer, or by the fact that the transfer order is

1 vacated by the payee in accordance with Subsection 2713.4(A).

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

4 (1) If the transfer contravenes the terms of the structured settlement, for
5 any taxes incurred by the structured settlement obligor or annuity issuer as a
6 consequence of the transfer; and

7 (2) For any other liabilities or costs, including reasonable costs and
8 attorney fees, arising from compliance by the structured settlement obligor or
9 annuity issuer with the court order approving the transfer, or from the failure
10 of any party to the transfer to comply with the Louisiana Structured Settlement
11 Act.

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

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

18 §2713.8. Procedure for approval of transfers

19 A. An application under this Act for approval of a transfer of structured
20 settlement payment rights shall be made by the transferee. The application shall
21 be brought in a court of general jurisdiction in the parish in which the payee is
22 domiciled, except that if the payee is not domiciled in this state, the application
23 may be brought in the court in this state that approved the structured
24 settlement agreement.

25 B. A timely hearing shall be held on an application for approval of a
26 transfer of structured settlement payment rights. The payee shall appear in
27 person at the hearing, unless the court determines that good cause exists to
28 excuse the payee from appearing in person.

29 C. Not less than twenty days prior to the scheduled hearing on any

1 application for approval of a transfer of structured settlement payment rights
2 under R.S. 2713.6, the transferee shall file with the court and serve on all
3 interested parties a notice of the proposed transfer and the application for
4 authorization. Such notice and application shall include all of the following:

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

6 (2) A copy of the transfer agreement.

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

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

10 (5) A summary of:

11 (a) Any prior transfers by the payee to the transferee or an affiliate, or
12 through the transferee or an affiliate to an assignee, within the four years
13 preceding the date of the transfer agreement and any proposed transfers by the
14 payee to the transferee or an affiliate, or through the transferee or an affiliate,
15 applications for approval of which were denied within the two years preceding
16 the date of the transfer agreement.

17 (b) Any prior transfers by the payee to any person or entity other than
18 the transferee or an affiliate or an assignee of the transferee or an affiliate
19 within the three years preceding the date of the transfer agreement, and any
20 prior proposed transfers by the payee to any person or entity other than the
21 transferee or an affiliate or an assignee of a transferee or affiliate, applications
22 for approval of which were denied within the one year preceding the date of the
23 current transfer agreement, to the extent that the transfers or proposed
24 transfers have been disclosed to the transferee by the payee in writing or
25 otherwise are actually known to the transferee.

26 (6) Notification that any interested party is entitled to support, oppose
27 or otherwise respond to the transferee's application, either in person or by
28 counsel, by submitting written comments to the court or by participating in the
29 hearing.

1 (7) Notification of the time and place of the hearing and notification of
2 the manner in which and the date by which written responses to the application
3 must be filed, which date shall be not less than five days prior to the hearing, in
4 order to be considered by the court.

5 §2713.9. General provisions; construction

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

7 B. Any transfer agreement entered into on or after the effective date of
8 this Act by a payee who is domiciled in this state shall provide that disputes
9 under such transfer agreement, including any claims that the payee has
10 breached the agreement, shall be determined in and under the laws of the state
11 of Louisiana. No such transfer agreement shall authorize the transferee or any
12 other party to confess judgment or consent to entry of judgment against the
13 payee.

14 C. No transfer of structured settlement payment rights shall extend to
15 any payments that are life contingent unless, prior to the date on which the
16 payee signs the transfer agreement, the transferee has established and has
17 agreed to maintain procedures reasonable satisfactory to the annuity issuer and
18 the structured settlement obligor for periodically confirming the payee's
19 survival and giving the annuity issuer and the structured settlement obligor
20 prompt written notice in the event of the payee's death.

21 D. If the payee cancels a transfer agreement, or if the transfer agreement
22 otherwise terminates, after an application for approval of a transfer of
23 structured settlement payment rights has been filed and before it has been
24 granted or denied, the transferee shall promptly request dismissal of the
25 application.

26 E. No payee who proposes to make a transfer of structured settlement
27 payment rights shall incur any penalty, forfeit any application fee or other
28 payment, or otherwise incur any liability to the proposed transferee or any
29 assignee based on any failure of such transfer to satisfy the conditions of this

Act.

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

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

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

Section 3. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Xavier I. Alexander.

DIGEST

SB 193 Engrossed

2019 Regular Session

Morrish

Proposed law enacts the Louisiana Structured Settlement Act.

Proposed law provides for definitions. Provides relative to the registration and renewal of a structured settlement 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. Further provides for certain bond requirements, and that bond shall be payable to the state of Louisiana.

Proposed law provides relative to prohibited acts by a transferee or structured settlement purchase company and an transferee, employee or representative of a 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 of the registration of the structured settlement purchase company, as well as damages allowed by law. Further provides that a payee may file an action to have a transfer order vacated under certain circumstances.

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 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 the best interest of payee, the payee has been advised in writing to seek independent professional advice regarding the transfer, and 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 shall be brought in the court that approved the structured settlement agreement.

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 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 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 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 upon signature of the governor or lapse of time for gubernatorial action.

(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.