



SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE
STATEMENT OF ESTIMATED FISCAL IMPACT
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This fiscal impact statement is produced in compliance with the South Carolina Code of Laws and House and Senate rules. The focus of the analysis is on governmental expenditure and revenue impacts and may not provide a comprehensive summary of the legislation.

Bill Number:	S. 0259	Introduced on January 10, 2023
Author:	Rankin	
Subject:	Structured Settlement Payments	
Requestor:	Senate Judiciary	
RFA Analyst(s):	Tipton	
Impact Date:	January 26, 2023	

Fiscal Impact Summary

This bill amends the Structured Settlement Protection Act of 2002 relating to the rules and regulations for structured settlement purchase companies and the rights of individuals selling structured settlements, defined as payees. Following the January 1, 2024, registration deadline, structured settlement purchase companies must be registered with the Secretary of State and are subject to fines in the event of non-compliance. The bill also authorizes a court of competent jurisdiction to appoint an attorney to make an independent assessment of whether the structured settlement transfer is in the best interest of the payee and must do so if the payee is a minor or appears to be mentally or cognitively impaired.

This bill will have no expenditure impact on the Office of Secretary of State (Secretary), as the office indicates requirements of the bill can be managed with existing staff and resources. Judicial indicates that the expenditure impact of structured settlement transfer review will be managed under existing appropriations. Additionally, the Revenue and Fiscal Affairs Office (RFA) anticipates that any increase in the number of requested hearings within the Administrative Law Court (ALC) can be managed within the normal course of business for the ALC.

This bill will increase fee revenue for the Office of the Secretary of State by at least \$6,250 in FY 2023-24, and at least \$1,000 in each year thereafter based on the office's estimate that at least 5 structured settlement purchase companies will apply and remit the required initial fee of \$1,250 and annual renewal fee of \$200 each. The office indicates that as many as 24 structured settlement purchase companies may apply, which would increase fee revenue to \$30,000 in FY 2023-24 and \$4,800 in each year thereafter. Additionally, a \$10,000 fine may be assessed by the Secretary to non-registered structured settlement purchase companies seeking a structured settlement transfer. However, because the number of fines that will be assessed are currently unknown, the revenue impact of the fine is undetermined.

This bill may increase fines and fees revenue for the ALC, depending upon the number of additional hearings related to structured settlement purchase companies. However, as the number of such additional hearings is currently unknown, the revenue impact is undetermined. ALC retains and expends fees remitted by litigants to defray the costs of proceedings.

This bill will have no impact on local expenditures. Currently, there is an order issued by the South Carolina Supreme Court Chief Justice that all hearings for structured settlement transfer cases must be heard by circuit court judges. If this order is lifted, however, RFA anticipates that the increased review of structured settlement transfers will be managed within the current budgets of local court systems.

Explanation of Fiscal Impact

Introduced on January 10, 2023

State Expenditure

This bill amends the Structured Settlement Protection Act of 2002 relating to the rules and regulations for structured settlement purchase companies and the rights of the individuals selling structured settlements. Following the January 1, 2024, registration deadline, structured settlement purchase companies must be registered with the Secretary of State and are subject to fines in the event of non-compliance. The bill amends the chapter's statutory definitions and specifies additional rules and requirements for structured settlement purchase companies, including that companies must provide payees with the effective interest rate paid based on the net amount the payee will receive and the timing of the structured settlement payments. Requirements of the Secretary of State are effective on the application deadline of January 1, 2024, while all other sections take effect July 1, 2023, and apply to applications filed on or after the effective date.

Secretary of State. This bill requires structured settlement purchase companies submitting applications for the transfer of structured settlement payment rights on or after January 1, 2024, to be registered with the Secretary of State. Under the provisions of this bill, initial or renewed registration is valid for up to one year, and applicants must meet the registration requirements. Applicants are required to pay a \$1,250 fee to the Secretary for initial registration and \$200 for registration renewal.

Additionally, the Secretary of State must provide unregistered structured settlement purchase companies seeking a structured settlement transfer after the registration deadline notice of the registration requirement. The Secretary may also bring action before the ALC against non-registered structured settlement purchase companies seeking a structured settlement transfer after the registration deadline. According to the Office of Secretary of State, the additional requirements as specified by the bill will be managed within existing staff and resources, and therefore will have no expenditure impact. Further, this bill allows the office to retain fines and fees related to the administration of this section which will be used to offset any additional expenses.

Judicial. This bill amends the process and requirements by which the courts must hear and approve structured settlement transfers. Under this bill, if a court finds a structured settlement purchase company in violation of the specified rules and regulations, it may revoke or suspend the registration of the structured settlement purchase company or enjoin the structured settlement purchase company or transferee from filing new transfer proceedings. The bill requires additional consideration by the court in determining whether a structured settlement transfer may

take place, including but not limited to the payee's age, mental capacity, maturity level, understanding of the agreement, how the loss of periodic payments will affect the payee's future financial status and obligations, whether payments were meant to cover medical expenses, and any other factor the court deems relevant.

In addition, this bill authorizes the court to appoint an attorney to make an independent assessment of whether the structured settlement transfer is in the best interest of the payee. All costs and reasonable fees for the appointed attorney will be an obligation of the structured settlement purchase company, not to exceed \$2,000. The court must appoint an attorney if a prospective payee is a minor or appears to suffer from mental or cognitive impairment. Judicial indicates that the court's additional review of structured settlement transfers required by the bill can be managed within existing appropriations.

Administrative Law Court. This bill allows an applicant assessed an administrative fee or denied registration to pay the fine or request an evidentiary hearing before the ALC, within thirty days from receipt of notice from the Secretary. If a person fails to remit fines or request a hearing after thirty days from the date of receipt of notice, the Secretary may bring an action before the ALC to enjoin the person from engaging in further activities related to the purchase or transfer of structured settlements in the state. While the number of requested hearing due to this bill is unknown, RFA anticipates the ALC can manage any additional hearings within the normal course of business.

State Revenue

This bill amends the Structured Settlement Protection Act of 2002 relating to the rules and regulations for structured settlement purchase companies and the rights of the individuals selling structured settlements. Following the January 1, 2024, registration deadline, structured settlement purchase companies must be registered with the Secretary of State and are subject to fines in the event of non-compliance. The bill allows any administrative fines and fees to be retained by the Secretary for the purposes of carrying out the provisions of the chapter.

Under this bill, structured settlement purchase companies are required to remit an initial application fee of \$1,250 and an annual renewal fee of \$200 to the Secretary of State. The Office of the Secretary of State expects at least 5, and as many as 24 structured settlement purchase companies may register in South Carolina by the application deadline. This could result in an increase in Other Fund fee revenue for the Office of Secretary of State by \$6,250 to \$30,000 in FY 2023-24, and \$1,000 to \$4,800 in each year thereafter, assuming all initial applicants renew annually.

If an application for registration is not filed after fifteen days of receipt of notice from the Secretary and a structured settlement transfer attempt is made, a \$10,000 fine will be assessed. An applicant assessed an administrative fee or denied registration has thirty days from receipt of notice from the Secretary to pay the fine or request an evidentiary hearing before the ALC. If a person fails to remit fines or request a hearing after thirty days from the date of receipt of notice, the Secretary may bring an action before the ALC to enjoin the person from engaging in further activities related to the purchase or transfer of structured settlements in the state. As the number

of fines that will be issued are unknown, the increase in Other Funds revenue due to these fines is undetermined.

This bill may increase fines and fees revenue for the ALC, depending on the number of additional hearings related to structured settlement purchase companies. However, as the number of such hearings is currently unknown, the revenue impact is undetermined. The ALC retains and expends fees remitted by litigants to defray the costs of proceedings.

Local Expenditure

This bill amends the Structured Settlement Protection Act of 2002 relating to the rules and regulations for structured settlement purchase companies and the rights of the individuals selling structured settlements as well as the process and requirements by which the courts must hear and approve structured settlement transfers. Currently, there is an order issued by the South Carolina Supreme Court Chief Justice that all hearings for structured settlement transfer cases must be heard by circuit court judges. If this order is lifted, however, RFA anticipates that the increased review of structured settlement transfers will be managed within the current budgets of local court systems and will have no local expenditure impact.

Local Revenue

N/A



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