

STORAGE NAME: h3905a.rs

DATE: March 23, 1998

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
REGULATED SERVICES
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 3905

RELATING TO: State Lottery; assignment of prizes

SPONSOR(S): Representative Fasano and others

COMPANION BILL(S): SB 1418 (I)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) REGULATED SERVICES YEAS 9 NAYS 2
 - (2) GOVERNMENTAL OPERATIONS
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

The bill would allow a lottery prize winner to voluntarily assign all or part of that person's prize award pursuant to a court order subject to certain conditions. Such assignment could not include money subject to attachment for required child support payments or payment for debts owed to the state. The department is authorized to establish a reasonable fee to defray the costs of administering and processing such assignments. Provides that, if such assignments affect the federal tax situation of all prize winners, then such assignments are prohibited.

The fiscal impact is indeterminate and dependent upon the number of persons electing to exercise the option to assign prize winnings.

The act will take effect on July 1 of the year in which enacted.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Section 24.115, Florida Statutes, provides that a person's right to a prize is not assignable; however, it may be paid to the estate of a deceased prize winner or to a person designated by a court order.

B. EFFECT OF PROPOSED CHANGES:

The bill would allow a lottery prize winner to voluntarily assign all or part of that person's prize award. Such assignment must be made pursuant to a court order, either from the jurisdiction of the person's residence or that of the Lottery Department's headquarters. Said court order may be issued if the assignment is made in writing and if the assignor provides a sworn affidavit attesting that he or she:

- * Is of sound mind, in command of faculties, and is not acting under duress;
- * Has been advised by legal counsel and has had opportunity to receive financial and tax advice regarding the assignment;
- * Understands that he or she will not receive all or part of the prize payments pursuant to the assignment agreement;
- * Understands that the department is not liable to make assigned payments to him or her;
- * Has been provided with a disclosure statement setting forth in at least 14-point type the payments being assigned, including amounts and payment dates; the purchase price being paid for the assignment; the rate of discount to present value; and the amount of origination or closing fees that may be charged;
- * Was advised, in writing, regarding the right to cancel the contract within three business days following the date on which the contract was signed.

A voluntary assignment may not include or cover payments that are subject to offset on account of a defaulted or delinquent child support payments or on account of a debt owed to a state agency unless satisfactory provisions are made pursuant to the court order.

The department is authorized to establish a reasonable fee to defray the costs of administering and processing such assignments.

The bill provides that, if the Internal Revenue Service or the courts ever declare and issue a statement to the department that the voluntary assignment of prizes will affect the federal income tax treatment of prize winners who do not assign prizes, that the department will file such notice with the Secretary of State and the Office of the State Courts Administrator. After such filing, no court may authorize a voluntary assignment under this section. A declaration that such assignment will affect prize winners' taxes may include a determination letter, revenue ruling, other public ruling of the IRS, or published decision.

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This bill creates section 24.1153, Florida Statutes, and amends ss. 24.115 and 24.118, F.S., to conform to the provisions of the newly created section including appropriate cross references.

The act will take effect on July 1 of the year in which enacted.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

N/A

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

N/A

(3) any entitlement to a government service or benefit?

N/A

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

N/A

- b. Does the bill require or authorize an increase in any fees?

N/A

- c. Does the bill reduce total taxes, both rates and revenues?

N/A

- d. Does the bill reduce total fees, both rates and revenues?

N/A

- e. Does the bill authorize any fee or tax increase by any local government?

N/A

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

N/A

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

The bill would allow a lottery prize winner to voluntarily assign all or part of his or her winnings to another person or entity.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

N/A

5. Family Empowerment:

a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Section 24.1153, F.S., is created and ss. 24.115 and 24.118, F.S., are amended.

E. SECTION-BY-SECTION RESEARCH:

This section need be completed only in the discretion of the Committee.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

Indeterminate. The department's costs would be dependent upon the number of persons electing to exercise the option to assign prize winnings.

3. Long Run Effects Other Than Normal Growth:

N/A

4. Total Revenues and Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

C. **DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

1. Direct Private Sector Costs:

N/A

2. Direct Private Sector Benefits:

A lottery prize winner would have the option to assign his or her winnings to another person or entity. Businesses which purchase such assigned winnings would be legally authorized to do so in the state.

3. Effects on Competition, Private Enterprise and Employment Markets:

N/A

D. **FISCAL COMMENTS:**

N/A

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. **APPLICABILITY OF THE MANDATES PROVISION:**

N/A

B. **REDUCTION OF REVENUE RAISING AUTHORITY:**

N/A

C. **REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:**

N/A

V. COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The bill was taken up by the Regulated Services Committee on March 23, 1998. An amendment sponsored by Representative Morroni was adopted which clarifies that a person is not required to seek both financial and tax advice prior to an assignment. The bill received a favorable vote.

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VII. SIGNATURES:

COMMITTEE ON REGULATED SERVICES:

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