

By Representatives Bense, Feeney, Fasano, Peaden, Effman,  
 Jacobs, Bradley, Bitner, Brummer, Wiles, Flanagan and Warner

1                                   A bill to be entitled  
 2           An act relating to the state lotteries;  
 3           creating s. 24.1153, F.S.; authorizing the  
 4           assignment of certain prizes pursuant to a  
 5           court order and providing requirements  
 6           therefor; providing for the securing of funds  
 7           offset for child support payments or debts owed  
 8           to a state agency; exempting the Department of  
 9           the Lottery from liability upon payment of an  
 10          assigned prize; authorizing a fee to defray the  
 11          administrative expenses associated with such  
 12          assignments; providing circumstances under  
 13          which such court orders may no longer be  
 14          issued; amending ss. 24.115 and 24.118, F.S.,  
 15          relating to payment of prizes and unlawful  
 16          assignment or transfer of a right to claim a  
 17          prize, to conform; providing an effective date.

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 19 Be It Enacted by the Legislature of the State of Florida:

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 21           Section 1. Section 24.1153, Florida Statutes, is  
 22           created to read:

23           24.1153 Assignment of prizes payable in installments  
 24           over time.--

25           (1) The right of any person to receive payments under  
 26           a prize that is paid in installments over time by the  
 27           department may be voluntarily assigned, in whole or in part,  
 28           if the assignment is made to a person or entity designated  
 29           pursuant to an order of a court of competent jurisdiction  
 30           located in the judicial district where the assigning prize  
 31           winner resides or where the headquarters of the department is

1 located. A court may issue an order approving a voluntary  
2 assignment and directing the department to make prize payments  
3 in whole or in part to the designated assignee, if and only if  
4 the court finds that all of the following conditions have been  
5 met:

6 (a) The assignment is in writing, is executed by the  
7 assignor, and is by its terms subject to the laws of this  
8 state.

9 (b) The purchase price being paid for the payments  
10 being assigned represents a present value of the payments  
11 being assigned discounted at an annual rate that does not  
12 exceed the state's usury limit for loans.

13 (c) The assignor provides a sworn affidavit attesting  
14 that he or she:

15 1. Is of sound mind, is in full command of his or her  
16 faculties, and is not acting under duress;

17 2. Has been advised regarding the assignment by his or  
18 her own independent legal counsel who is unrelated to and is  
19 not being compensated by the assignee or any of the assignee's  
20 affiliates, and has received independent financial or tax  
21 advice concerning the effects of the assignment from a lawyer  
22 or other professional who is unrelated to and is not being  
23 compensated by the assignee or any of the assignee's  
24 affiliates;

25 3. Understands that he or she will not receive the  
26 prize payments or portions thereof for the years assigned;

27 4. Understands and agrees that with regard to the  
28 assigned payments the department, and its respective officials  
29 and employees, will have no further liability or  
30 responsibility to make the assigned payments to him or her;  
31

1           5. Has been provided with a one-page written  
2 disclosure statement setting forth, in bold type of not less  
3 than 14 points, the payments being assigned, by amounts and  
4 payment dates; the purchase price being paid; the rate of  
5 discount to present value, assuming daily compounding and  
6 funding on the contract date; and the amount, if any, of any  
7 origination or closing fees that will be charged to him or  
8 her; and

9           6. Was advised in writing, at the time he or she  
10 signed the assignment contract, that he or she had the right  
11 to cancel the contract, without any further obligation, within  
12 3 business days following the date on which the contract was  
13 signed.

14           (d) Written notice of the proposed assignment and any  
15 court hearing concerning the proposed assignment is provided  
16 to the department's counsel at least 10 days prior to any  
17 court hearing. The department is not required to appear in or  
18 be named as a party to any such action seeking judicial  
19 confirmation of an assignment under this section, but may  
20 intervene as of right in any such proceeding.

21           (2) In accordance with the provisions of s. 24.115(4),  
22 a voluntary assignment may not include or cover payments or  
23 portions of payments that are subject to offset on account of  
24 a defaulted or delinquent child support obligation or on  
25 account of a debt owed to a state agency, unless appropriate  
26 provision is made in the court order to satisfy the  
27 obligations giving rise to the offset.

28           (3) The department, and its respective officials and  
29 employees, shall be discharged of all liability upon payment  
30 of an assigned prize under this section.  
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1       (4) The department may establish a reasonable fee to  
2 defray any administrative expenses associated with assignments  
3 made under this section, including the cost to the department  
4 of any processing fee that may be imposed by a private annuity  
5 provider. The fee amount shall reflect the direct and indirect  
6 costs associated with processing such assignments.

7       (5) If at any time the federal Internal Revenue  
8 Service or a court of competent jurisdiction issues a  
9 determination letter, revenue ruling, other public ruling of  
10 the Internal Revenue Service, or published decision to any  
11 state lottery or prize winner of any state lottery declaring  
12 that the voluntary assignment of prizes will affect the  
13 federal income tax treatment of prize winners who do not  
14 assign their prizes, the secretary of the department shall  
15 immediately file a copy of that letter, ruling, or published  
16 decision with the Secretary of State and the Office of the  
17 State Courts Administrator. A court may not issue an order  
18 authorizing a voluntary assignment under this section after  
19 the date any such ruling, letter, or published decision is  
20 filed.

21       Section 2. Paragraph (a) of subsection (1) of section  
22 24.115, Florida Statutes, is amended to read:

23       24.115 Payment of prizes.--

24       (1) The department shall promulgate rules to establish  
25 a system of verifying the validity of tickets claimed to win  
26 prizes and to effect payment of such prizes; however:

27       (a) The right of any person to a prize, other than a  
28 prize that is payable in installments over time, is ~~shall~~ not  
29 ~~be~~ assignable. However, any a prize, to the extent it has not  
30 already been assigned or encumbered, may be paid to the estate  
31 of a deceased prize winner or to a person designated pursuant

1 to an appropriate court ~~judicial~~ order. A prize that is  
2 payable in installments over time is assignable, but only  
3 pursuant to an appropriate court order as provided in s.  
4 24.1153.

5 Section 3. Subsection (2) of section 24.118, Florida  
6 Statutes, is amended to read:

7 24.118 Other prohibited acts; penalties.--

8 (2) UNLAWFUL ASSIGNMENT OR TRANSFER OF RIGHT TO CLAIM  
9 PRIZE.--Except as authorized by s. 24.1153,any person who  
10 induces another to assign or transfer his or her right to  
11 claim a prize, who offers for sale his or her right to claim a  
12 prize, or who offers for compensation to claim the prize of  
13 another is guilty of a misdemeanor of the first degree,  
14 punishable as provided in s. 775.082 or s. 775.083.

15 Section 4. This act shall take effect July 1, 1999.

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18 HOUSE SUMMARY

19 Authorizes the assignment of lottery prizes payable in  
20 installments over time pursuant to a court order and  
21 provides requirements therefor. Provides for the securing  
22 of funds offset for child support payments or debts owed  
23 to a state agency. Authorizes a fee to defray the  
24 administrative expenses associated with such assignments.  
25 Provides that such court orders may no longer be issued  
26 if the Internal Revenue Service or a court determines  
27 that such assignment affects the income tax treatment of  
28 prize winners who do not assign their prizes.  
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