

By the Committee on Regulated Services and 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 s. 24.115, F.S., relating to
 15 payment of prizes, to conform; requiring the
 16 department to seek a declaration concerning the
 17 tax consequences of the right of assignment for
 18 those who do not assign their prizes; providing
 19 effective dates.

20
 21 Be It Enacted by the Legislature of the State of Florida:

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

25 24.1153 Assignment of prizes payable in installments
 26 over time.--

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

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

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

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

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

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

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

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

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

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) A certified copy of a court order approving a
22 voluntary assignment must be provided to the department no
23 later than 14 days before the date on which the payment is to
24 be made.

25 (3) In accordance with the provisions of s. 24.115(4),
26 a voluntary assignment may not include or cover payments or
27 portions of payments that are subject to offset on account of
28 a defaulted or delinquent child-support obligation or on
29 account of a debt owed to a state agency. Each court order
30 issued under subsection (1) shall provide that any delinquent
31 child-support obligations of the assigning prize winner and

1 any debts owed to a state agency by the assigning prize
2 winner, as of the date of the court order, shall be offset by
3 the department first against remaining payments or portions
4 thereof due the prize winner and then against payments due the
5 assignee.

6 (4) The department, and its respective officials and
7 employees, shall be discharged of all liability upon payment
8 of an assigned prize under this section.

9 (5) The department may establish a reasonable fee to
10 defray any administrative expenses associated with assignments
11 made under this section, including the cost to the department
12 of any processing fee that may be imposed by a private annuity
13 provider. The fee amount shall reflect the direct and indirect
14 costs associated with processing such assignments.

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

28 Section 2. Paragraph (a) of subsection (1) of section
29 24.115, Florida Statutes, is amended to read:

30 24.115 Payment of prizes.--
31

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

4 (a) The right of any person to a prize, other than a
5 prize that is payable in installments over time, is ~~shall not~~
6 ~~be~~ assignable. However, any a prize, to the extent that it has
7 not been assigned or encumbered pursuant to s. 24.1153, may be
8 paid to the estate of a deceased prize winner or to a person
9 designated pursuant to an appropriate court ~~judicial~~ order. A
10 prize that is payable in installments over time is assignable,
11 but only pursuant to an appropriate court order as provided in
12 s. 24.1153.

13 Section 3. The Department of the Lottery shall seek
14 from the United States Internal Revenue Service a
15 determination letter or revenue ruling declaring that the
16 voluntary assignment of prizes under this act will not affect
17 the federal income tax treatment of prize winners who do not
18 assign their prizes.

19 Section 4. This act shall take effect upon becoming a
20 law, except that sections 1 and 2 shall take effect September
21 1, 1999, or upon receipt by the Department of the Lottery of
22 the declaration sought under section 3, whichever occurs
23 earlier.

24
25
26
27
28
29
30
31