

Bill No. SB 1816

Amendment No. \_\_\_\_

<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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Senator Thomas moved the following amendment:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause,

and insert:

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

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

(1) The right of any person to receive payments under a prize that is paid in installments over time by the department may be voluntarily assigned, in whole or in part, if the assignment is made to a person or entity designated pursuant to an order of a court of competent jurisdiction located in the judicial district where the assigning prize winner resides or where the headquarters of the department is located. A court may issue an order approving a voluntary assignment and directing the department to make prize payments in whole or in part to the designated assignee, if the court finds that all of the following conditions have been met:

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1           (a) The assignment is in writing, is executed by the  
2 assignor, and is, by its terms, subject to the laws of this  
3 state.

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

8           (c) The assignor provides a sworn affidavit attesting  
9 that he or she:

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

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

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

22           4. Understands and agrees that with regard to the  
23 assigned payments the department and its officials and  
24 employees will have no further liability or responsibility to  
25 make the assigned payments to him or her;

26           5. Has been provided with a one-page written  
27 disclosure statement setting forth, in bold type of not less  
28 than 14 points, the payments being assigned, by amounts and  
29 payment dates; the purchase price being paid; the rate of  
30 discount to present value, assuming daily compounding and  
31 funding on the contract date; and the amount, if any, of any

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1 origination or closing fees that will be charged to him or  
2 her; and

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

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

15 (2) A certified copy of a court order approving a  
16 voluntary assignment must be provided to the department no  
17 later than 14 days before the date on which the payment is to  
18 be made.

19 (3) In accordance with the provisions of s. 24.115(4),  
20 a voluntary assignment may not include or cover payments or  
21 portions of payments that are subject to offset on account of  
22 a defaulted or delinquent child-support obligation or on  
23 account of a debt owed to a state agency. Each court order  
24 issued under subsection (1) shall provide that any delinquent  
25 child-support obligations of the assigning prize winner and  
26 any debts owed to a state agency by the assigning prize  
27 winner, as of the date of the court order, shall be offset by  
28 the department first against remaining payments or portions  
29 thereof due the the prize winner and then against payments due  
30 the assignee.

31 (4) The department, and its respective officials and

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1 employees, shall be discharged of all liability upon payment  
 2 of an assigned prize under this section.

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

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

22 Section 2. Paragraph (a) of subsection (1) of section  
 23 24.115, Florida Statutes, is amended to read:

24 24.115 Payment of prizes.--

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

28 (a) The right of any person to a prize, other than a  
 29 prize that is payable in installments over time, is ~~shall~~ not  
 30 be assignable. However, any a prize, to the extent that it has  
 31 not been assigned or encumbered pursuant to s. 24.1153, may be

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1 paid to the estate of a deceased prize winner or to a person  
2 designated pursuant to an appropriate court ~~judicial~~ order. A  
3 prize that is payable in installments over time is assignable,  
4 but only pursuant to an appropriate court order as provided in  
5 s. 24.1153.

6 Section 3. The Department of the Lottery shall seek  
7 from the United States Internal Revenue Service a  
8 determination letter or revenue ruling declaring that the  
9 voluntary assignment of prizes under this act will not affect  
10 the federal income tax treatment of prize winners who do not  
11 assign their prizes.

12 Section 4. This act shall take effect upon becoming a  
13 law, except that sections 1 and 2 shall take effect September  
14 1, 1999, or upon receipt by the Department of the Lottery of  
15 the declaration sought under section 3, whichever occurs  
16 earlier.

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19 ===== T I T L E A M E N D M E N T =====

20 And the title is amended as follows:

21 Delete everything before the enacting clause,

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23 and insert:

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A bill to be entitled

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An act relating to the state lotteries;

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creating s. 24.1153, F.S.; authorizing the

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assignment of certain prizes pursuant to a

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court order and providing requirements

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therefor; providing for the securing of funds

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offset for child-support payments or debts owed

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to a state agency; exempting the Department of

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1           the Lottery from liability upon payment of an  
2           assigned prize; authorizing a fee to defray the  
3           administrative expenses associated with such  
4           assignments; providing circumstances under  
5           which such court orders may no longer be  
6           issued; amending s. 24.115, F.S., relating to  
7           payment of prizes, to conform; requiring the  
8           department to seek a declaration concerning the  
9           tax consequences of the right of assignment for  
10          those who do not assign their prizes; providing  
11          effective dates.

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