

By Senator Thomas

3-1172A-99

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, 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.

18  
 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 the court  
4 finds that all of the following conditions have been met:

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

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

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

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

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

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

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

30 5. Has been provided with a one-page written  
31 disclosure statement setting forth, in bold type of not less

1 than 14 points, the payments being assigned, by amounts and  
2 payment dates; the purchase price being paid; the rate of  
3 discount to present value, assuming daily compounding and  
4 funding on the contract date; and the amount, if any, of any  
5 origination or closing fees that will be charged to him or  
6 her; and

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

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

19 (2) 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, unless appropriate  
24 provision is made in the court order to satisfy the  
25 obligations giving rise to the offset.

26 (3) The department, and its respective officials and  
27 employees, shall be discharged of all liability upon payment  
28 of an assigned prize under this section.

29 (4) The department may establish a reasonable fee to  
30 defray any administrative expenses associated with assignments  
31 made under this section, including the cost to the department

1 of any processing fee that may be imposed by a private annuity  
2 provider. The fee amount shall reflect the direct and indirect  
3 costs associated with processing such assignments.

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

17 (6) Prize winners entitled to choose between payment  
18 options may elect to receive a lump sum cash award only during  
19 the 60-day period commencing after the winning draw date.

20 (7) With regard to any prize paid over a course of  
21 years in accordance with a schedule established by the  
22 department at the time of award, the department shall not  
23 alter the timing or amount of scheduled payments or otherwise  
24 accelerate, defer, commute, or discount such scheduled  
25 payments.

26 Section 2. Paragraph (a) of subsection (1) of section  
27 24.115, Florida Statutes, is amended to read:

28 24.115 Payment of prizes.--

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

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

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

12           24.118 Other prohibited acts; penalties.--

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

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

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23           SENATE SUMMARY

24           Authorizes the assignment of certain lottery prizes  
25 pursuant to a court order. Provides requirements for such  
26 assignments and provides for the securing of funds offset  
27 for child-support payments or debts owed to a state  
28 agency. Exempts the Department of the Lottery from  
29 liability upon the payment of an assigned prize.  
30 Authorizes an administrative fee to defray administrative  
31 expenses associated with such assignments. Provides  
circumstances under which court orders may not be issued.