

Committee Substitute for House Bill No. 1549

An act relating to the state lotteries; creating s. 24.1153, F.S.; authorizing the assignment of certain prizes pursuant to a court order and providing requirements therefor; providing for the securing of funds offset for child-support payments or debts owed to a state agency; exempting the Department of the Lottery from liability upon payment of an assigned prize; authorizing a fee to defray the administrative expenses associated with such assignments; providing circumstances under which such court orders may no longer be issued; amending s. 24.115, F.S., relating to payment of prizes, to conform; requiring the department to seek a declaration concerning the tax consequences of the right of assignment for those who do not assign their prizes; providing effective dates.

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

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:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(6) If at any time the Internal Revenue Service or a court of competent jurisdiction issues a determination letter, revenue ruling, other public ruling of the Internal Revenue Service, or published decision to any state

lottery or prize winner of any state lottery declaring that the voluntary assignment of prizes will affect the federal income tax treatment of prize winners who do not assign their prizes, the secretary of the department shall immediately file a copy of that letter, ruling, or published decision with the Secretary of State and the Office of the State Courts Administrator. A court may not issue an order authorizing a voluntary assignment under this section after the date any such ruling, letter, or published decision is filed.

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

24.115 Payment of prizes.—

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

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

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

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

Approved by the Governor May 14, 1999.

Filed in Office Secretary of State May 14, 1999.