

SENATE, No. 2282

STATE OF NEW JERSEY

INTRODUCED DECEMBER 1, 1997

By Senator CIESLA

1 AN ACT clarifying that State Lottery prizes may be assigned under
2 certain circumstances and amending P.L.1970, c.13.

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4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

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7 1. Section 13 of P.L.1970, c.13 (C.5:9-13) is amended to read as
8 follows:

9 13. [No] a. The right of any person to a prize drawn shall not be
10 assignable, except [that] as permitted by this section.

11 b. The payment of any prize drawn may be paid to the estate of a
12 deceased prize winner [, and except that any] upon receipt by the
13 State Lottery of a certified copy of a order appointing an executor or
14 an administrator.

15 c. Any person [pursuant to an appropriate judicial order] may be
16 assigned and paid the prize to which the winner is entitled pursuant to
17 a judicial order of the New Jersey Superior Court or a federal court
18 having jurisdiction over property located in this State provided that the
19 order pertains to claims of ownership in the prize drawn, division of
20 marital property in divorce actions, bankruptcy, child support,
21 appointment of a guardian or conservator, or distribution of an estate.

22 d. Any person may be assigned and paid a prize to which the
23 winner is entitled pursuant to a judicial order of the New Jersey
24 Superior Court or a federal court having jurisdiction over property
25 located in this State provided that the order contains at least the
26 following findings:

27 (1) the full legal name, address, social security number or taxpayer
28 identification number and, if applicable, resident alien number of the
29 winner;

30 (2) the full legal name, address, social security number or taxpayer
31 identification number and, if applicable, resident alien number of the
32 assignee;

33 (3) the date on which the winner won the prize;

34 (4) the date on which the winner claimed the prize;

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

1 (5) the gross amount of the prize drawn before application of
2 withholding taxes;

3 (6) the gross amount of payments to be made to the winner by the
4 State Lottery before application of withholding taxes;

5 (7) the dates of the payments to be assigned and the amount of the
6 specific payments to be assigned on each date;

7 (8) the identity of the winner's spouse, if any, and the interest of the
8 spouse in the prize;

9 (9) the identity of any other co-owner, claimant or lienholder and
10 the amount of the interests, liens, security interests, prior assignments
11 or offsets asserted by such party;

12 (10) that the interest rate or discount rate, as applicable, and all fees
13 and costs and other material terms relating to the assignment are
14 expressly and clearly included in all material documents and in all
15 documents that include any obligations of the prize winner;

16 (11) that the interest rate or discount rate, as applicable, associated
17 with the assignment does not indicate overreaching or exploitation and
18 does not violate any laws of usury of this State;

19 (12) that the winner has reviewed and understands the terms of the
20 assignment;

21 (13) that the winner understands that the winner will not receive the
22 prize payments, or portions thereof, for the years assigned;

23 (14) that the winner has agreed to the assignment of the winner's
24 own free will without undue influence or duress;

25 (15) that the winner has retained, and consulted with, independent
26 legal counsel who has advised the winner of the winner's legal rights
27 and obligations;

28 (16) that the winner has retained, and consulted with, an
29 independent tax advisor concerning the tax consequences of the
30 assignment; and

31 (17) that the winner does not seek assignment for purposes of
32 evading creditors, judgments or obligations for child support.

33 e. Before a winner is legally bound, by agreement, contract or
34 otherwise, and prior to the issuance of an order pursuant to subsection
35 d. of this section, the assignee shall provide the winner with all
36 material documents which shall be binding on the assignor, including
37 documents evidencing obligations of the winner. All documents shall
38 include a notice of the assignor's right to cancel the agreement which
39 shall be located in immediate proximity to all spaces reserved for the
40 signature of the winner in bold-faced type of at least 10 points and
41 which shall provide as follows:

42 "You have the right to cancel this assignment without any cost to
43 you until midnight three business days after the day on which you have
44 signed an agreement to assign all or a portion of your prize.

45 "Cancellation occurs when you give notice by regular first class
46 mail, postage prepaid, to the assignee at the address listed at the top

1 of the first page of this document that you wish to cancel the
2 assignment. Notice is deemed given when deposited in a mailbox."

3 f. If the State Lottery determines that a judicial order granting an
4 assignment, issued pursuant to subsection d. of this section, is
5 complete and correct in all respects, the State Lottery shall, not later
6 than 10 days after receiving a true and correct copy of the filed judicial
7 order, send the winner and the assignee written confirmation of receipt
8 of the court-ordered assignment and of the State Lottery's intent to
9 rely thereon in making future payments to the assignee named in the
10 order. The State Lottery shall, thereafter, make all payments in
11 accordance with the judicial order. No change in the terms of any
12 assignment shall be effective unless made pursuant to a subsequent
13 judicial order.

14 g. The State Lottery may impose a reasonable fee on an assignor
15 to defray any direct or indirect administrative expenses associated with
16 an assignment.

17 h. A winner shall not be permitted to assign the final annual prize
18 payment.

19 i. The State Lottery and the State are not parties to assignment
20 proceedings.

21 j. The State Lottery and the State shall comply with, and rely upon,
22 a judicial order in distributing payments subject to that order.

23 k. A winner may pledge or grant a security interest in all or part of
24 a prize as collateral for repayment of a loan pursuant to a judicial
25 order containing the findings required by subsection d. of this section
26 which the court deems relevant the pledge or grant.

27 l. Except where inconsistent with the provisions of this section,
28 the New Jersey Consumer Fraud Act, P.L.1960, c.39 (C.56:8-1 et
29 seq.), shall apply to all transactions under this section.

30 m. The court shall cease to approve assignments pursuant to
31 subsection d. of this section if:

32 (1) the United States Internal Revenue Service issues a technical
33 rule letter, revenue ruling, or other public ruling in which it is
34 determined that because of the right of assignment provided by
35 subsection d. of this section, prizewinners who do not exercise the
36 right to assign prize payments would be subject to an immediate
37 income tax liability for the value of the entire prize rather than annual
38 income tax liability for each installment when received; or

39 (2) a court of competent jurisdiction issues a published decision
40 holding that because of the right of assignment provided by subsection
41 d. of this section, prizewinners who do not exercise the right to assign
42 prize payments would be subject to an immediate income tax liability
43 for the value of the entire prize rather than annual income tax liability
44 for each installment when received.

45 n. Upon receipt, the director shall immediately file a copy of a
46 letter or ruling of the United States Internal Revenue Service or a

1 published decision of a court of competent jurisdiction, described in
2 subsection m. of this section, with the Secretary of State. No
3 assignment shall be approved pursuant to subsection d. of this section
4 after the date of such filing.

5 o. The director shall be discharged of all further liability upon
6 payment of a prize pursuant to this section.

7 (cf: P.L.1970, c.13, s.13)

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9 2. This act shall take effect immediately.

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12 STATEMENT

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14 This bill would clarify existing law to permit any person who has
15 the right to receive a State Lottery prize to voluntarily assign that right
16 to another person. A person who wishes to make a voluntary
17 assignment of periodic payments would apply to the Superior Court,
18 or to a federal court having jurisdiction over property located in New
19 Jersey, for an order approving the transaction. The bill contains
20 provisions intended to protect a winner's rights and ensure that a
21 winner makes an informed decision when making an assignment. The
22 bill would also allow a winner to pledge or grant a security interest in
23 all or part of a prize as collateral for repayment of a loan.

24 The bill provides that voluntary assignments would cease to be
25 approved if the Internal Revenue Service issues a ruling, or a court of
26 competent jurisdiction issues a published decision, to the effect that
27 because voluntary assignments are allowed, prize-winners who do not
28 make an assignment would be subject to an immediate tax liability for
29 the value of the entire prize rather than an annual tax liability for each
30 installment when received.

31 The bill would enable a person who is receiving a lottery prize
32 through annual installments over a period of years to instead gain
33 access to a lump sum which may be needed for such purposes as
34 extraordinary medical expenses, the purchase of a home, or investment
35 in a business. Senior citizens, in particular, may prefer to receive a
36 lump sum payment instead of annual installments. In addition,
37 depending upon an individual's other income, assets, investment plans,
38 and obligations, it may be more advantageous from a financial planning
39 perspective to exchange annual payments for a single large payment.
40 Similar legislation has been enacted by 11 other states and the District
41 of Columbia.

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45 Clarifies that State Lottery prizes may be assigned under certain
46 circumstances.