

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 1816

SPONSOR: Senator Thomas

SUBJECT: State Lotteries

DATE: March 15, 1999

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Keating</u>	<u>Wood</u>	<u>FR</u>	<u>Favorable</u>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

The bill will allow a lottery prize winner to voluntarily assign all or part of that person's prize award pursuant to a court order subject to certain conditions. Such assignment could not include money subject to attachment for required child support payments or payment for debts owed to the state. The Department of the Lottery (department) is authorized to establish a reasonable fee to defray the costs of administering and processing such assignments. Provides that, if such assignments affect the federal tax situation of all prize winners, then such assignments are prohibited. Provides an exception to the general prohibition against assignments.

This bill substantially amends, creates, or repeals the following sections of the Florida Statutes: 24.1153, 24.115 and 24.118, F.S.

II. Present Situation:

Florida citizens voted in 1986 to amend the state's Constitution to permit state operated lotteries. Section 15 of Article X of the Florida Constitution authorizes the Legislature to establish, by law, a state lottery and designate an educational trust fund in which the net proceeds of lottery sales may be deposited.

The "Florida Education Lottery Act", chapter 24, F.S., was enacted in 1987 to provide the statutory framework for the state lottery. Section 24.115, Florida Statutes, provides that a person's right to a prize is not assignable; however, it may be paid to the estate of a deceased prize winner or to a person designated by a court order.

III. Effect of Proposed Changes:

The bill creates s. 24.1153, F.S., which allows a lottery prize winner to voluntarily assign all or part of that person's prize award. Such assignment must be made pursuant to a court order, either from the jurisdiction of the person's residence or that of the Lottery Department's

headquarters. Said court order may be issued if and only 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; and

(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; and

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

- * Is of sound mind, is in full command of his or her faculties, and is not acting under duress;
- * 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 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 concerning the effects of the assignment;
- * Understands that he or she will not receive all or part of the prize payments pursuant to the assignment agreement;
- * Understands and agrees that, with regard to the assigned payments, the department, and its respective officials and employees, will have no further liability or responsibility to make the assigned payments to him or her;
- * 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
- * Was advised, in writing, regarding the right to cancel the contract, without any further obligation, within three 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 must be provided to the Lottery's counsel at least 10 days prior to any court hearing. The Lottery shall not be 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.

A voluntary assignment may not include or cover 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 unless appropriate provisions are made pursuant to the court order to satisfy the obligation giving rise to the offset.

The department, and its respective officials and employees, shall be discharged of all liability upon payment of an assigned prize.

The department is authorized to establish a reasonable fee to defray the costs of administering and processing such assignments.

The bill provides that, if the Internal Revenue Service or the courts ever declare and issue 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 that the voluntary assignment of prizes will affect the federal income tax treatment of prize winners who do not assign their prizes, that 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. After such filing, no court may authorize a voluntary assignment under this section.

Prize winners entitled to choose between payment options may elect to receive a lump sum cash award only during the 60-day period commencing after the winning draw dates.

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

The bill amends s. 24.115, F.S., to provide an exception to the general prohibition against assignments to allow assignment of prizes payable in installments over time pursuant to a court order.

The bill amends s. 24.118, F.S., to provide an exception for the assignment of lottery prizes pursuant to s. 24.1153, F.S., from the prohibitions against inducing another person to assign his or her right to claim a prize and against a person offering for sale, his or her right to claim a prize.

The act takes effects on July 1, 1999.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Lottery winners who chose to assign their lottery prize over time will incur some loss of revenue over the payment period as a result of the fees and interest rate of the assigned company involved.

C. Government Sector Impact:

The bill authorizes the Department of the Lottery to assess a “reasonable fee” to offset the actual administrative costs associated with administering and processing the assignments of such lottery prizes paid over time.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.