

UNOFFICIAL COPY OF HOUSE BILL 158

By: Delegate C. Davis
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Assigned to: Ways and Means

Committee Report: Favorable
House action: Adopted
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CHAPTER _____

1 AN ACT concerning

2 State Lottery -Prize Winners -Voluntary Assignments

3 FOR the purpose of enabling certain prize winners of the State lottery to voluntarily
4 assign prizes that are paid in installments under certain circumstances;
5 authorizing a certain court to hear petitions for approval of voluntary
6 assignments; requiring a certain court to issue an order that approves a
7 voluntary assignment and directs the State Lottery Agency to make certain
8 payments to the assignee if the court makes certain findings; requiring that a
9 certain notice be given to the State Lottery Agency at a certain time; requiring
10 the State Lottery Agency under certain circumstances to send the assignor and
11 the assignee written confirmation of an assignment and the State Lottery
12 Agency's intent to rely on it in making payments to the assignee; prohibiting
13 assignments from including certain payments; discharging the State Lottery
14 Agency, the State Lottery Commission, and officials and employees of the State
15 Lottery Agency from liability under certain circumstances; providing that
16 certain persons be held harmless and be indemnified from certain proceedings
17 related to the assignment; authorizing the State Lottery Agency to establish a
18 certain fee; requiring that a contract of assignment include a certain affidavit
19 completed by the assignee; specifying the contents of the affidavit; requiring an
20 assignee to notify the State Lottery Agency of certain information under certain
21 circumstances; requiring that a husband and wife who are co-owners of a prize
22 assign the prize in a certain way; prohibiting certain court orders from requiring
23 the State Lottery Agency to divide a single prize payment in a certain way;
24 allowing the substitution of assignees under certain circumstances; prohibiting
25 a court from allowing an assignment under certain circumstances; specifying
26 that, if certain provisions of this Act are inconsistent with certain other
27 provisions of law, the provisions of this Act shall prevail; providing that
28 contracts or agreements that are made or entered into on or before a certain

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1 date and purport to assign or grant interest in prize payments are void; and
2 generally relating to the State lottery.

3 BY repealing and reenacting, with amendments,
4 Article -State Government
5 Section 9-122
6 Annotated Code of Maryland
7 (2004 Replacement Volume and 2005 Supplement)

8 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
9 MARYLAND, That the Laws of Maryland read as follows:

10 Article -State Government
11 9-122.

12 (a) The regulations of the Agency shall provide for winning tickets to be drawn
13 at least once a week.

14 (b) (1) Except as otherwise provided in this subsection, § 10-113.1 of the
15 Family Law Article, and § 11-618 of the Criminal Procedure Article, a prize won
16 under this subtitle is not assignable.

17 (2) If the prize winner dies before the prize is paid, the prize may be paid
18 to the estate of the prize winner.

19 (3) Under appropriate court order, a prize won under this subtitle may
20 be paid to a person other than the winner.

21 (4) (I) THE RIGHT OF A PERSON TO RECEIVE PAYMENT UNDER A
22 PRIZE THAT IS PAID IN INSTALLMENTS OVER TIME BY THE AGENCY MAY BE
23 VOLUNTARILY ASSIGNED AS A WHOLE OR IN PART, IF THE ASSIGNMENT IS MADE TO
24 A PERSON DESIGNATED IN ACCORDANCE WITH AN ORDER OF THE CIRCUIT COURT
IN

25 THE COUNTY WHERE THE HEADQUARTERS OF THE AGENCY IS LOCATED.

26 (II) A CIRCUIT COURT SPECIFIED UNDER SUBPARAGRAPH (I) OF
27 THIS PARAGRAPH MAY HEAR PETITIONS FOR APPROVAL OF VOLUNTARY
28 ASSIGNMENTS.

29 (III) ON THE FILING BY THE ASSIGNOR OR THE ASSIGNEE IN THE
30 CIRCUIT COURT OF A PETITION SEEKING APPROVAL OF A VOLUNTARY
ASSIGNMENT,

31 THE COURT SHALL ISSUE AN ORDER APPROVING A VOLUNTARY ASSIGNMENT AND
32 DIRECTING THE AGENCY TO MAKE PRIZE PAYMENTS AS A WHOLE OR IN PART TO
THE

33 ASSIGNEE IF THE COURT FINDS THAT:

34 1. THE ASSIGNMENT IS IN WRITING, IS EXECUTED BY THE

35 ASSIGNOR, AND IS BY ITS TERMS SUBJECT TO THE LAWS OF THIS STATE;

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1 2. THE ASSIGNOR PROVIDES A SWORN AFFIDAVIT
2 ATTESTING THAT THE ASSIGNOR IS OF SOUND MIND, IS IN FULL COMMAND OF THE
3 ASSIGNOR'S FACULTIES, AND IS NOT ACTING UNDER DURESS;
4 3. THE ASSIGNOR HAS BEEN ADVISED ABOUT THE
5 ASSIGNMENT BY AN INDEPENDENT ATTORNEY WHO IS NOT RELATED TO AND NOT
6 COMPENSATED BY THE ASSIGNEE OR AN AFFILIATE OF THE ASSIGNEE;
7 4. THE ASSIGNOR HAS RECEIVED INDEPENDENT FINANCIAL
8 OR TAX ADVICE CONCERNING THE EFFECTS OF THE ASSIGNMENT FROM AN
9 ATTORNEY OR OTHER PROFESSIONAL WHO IS UNRELATED TO AND IS NOT
10 COMPENSATED BY THE ASSIGNEE OR AN AFFILIATE OF THE ASSIGNEE;
11 5. THE ASSIGNOR UNDERSTANDS THAT THE ASSIGNOR WILL
12 NOT RECEIVE THE PRIZE PAYMENTS OR PARTS OF PAYMENTS DURING THE YEARS
13 ASSIGNED;
14 6. THE ASSIGNOR UNDERSTANDS AND AGREES THE AGENCY,
15 COMMISSION, AND OFFICIALS AND EMPLOYEES OF THE AGENCY ARE NOT LIABLE
OR
16 RESPONSIBLE FOR MAKING ANY OF THE ASSIGNED PAYMENTS;
17 7. THE ASSIGNEE PROVIDES THE ASSIGNOR WITH A
18 ONE-PAGE DISCLOSURE STATEMENT THAT SETS FORTH IN BOLD TYPE NOT LESS
19 THAN 14 POINTS IN SIZE THE PAYMENTS BEING ASSIGNED BY AMOUNT AND
20 PAYMENT DATE, THE PURCHASE PRICE, THE RATE OF DISCOUNT TO PRESENT VALUE
21 ASSUMING DAILY COMPOUNDING AND FUNDING ON THE CONTRACT DATE, AND
ANY
22 ORIGINATION OR CLOSING FEE THAT WILL BE CHARGED TO THE ASSIGNOR; AND
23 8. THE CONTRACT OF ASSIGNMENT EXPRESSLY STATES
24 THAT THE ASSIGNOR HAS 5 BUSINESS DAYS AFTER SIGNING THE CONTRACT TO
25 CANCEL THE ASSIGNMENT.
26 (IV) 1. WRITTEN NOTICE OF THE PETITION AND PROPOSED
27 ASSIGNMENT AND ANY COURT HEARING CONCERNING THE PETITION AND
28 PROPOSED ASSIGNMENT SHALL BE GIVEN TO THE AGENCY'S COUNSEL AT LEAST 30
29 DAYS BEFORE A COURT HEARING.
30 2. THE AGENCY NEED NOT APPEAR IN OR BE NAMED AS
31 PARTY TO AN ACTION THAT SEEKS JUDICIAL APPROVAL OF AN ASSIGNMENT BUT
32 MAY INTERVENE AS OF RIGHT IN THE ACTION.
33 3. A CERTIFIED COPY OF A COURT ORDER APPROVING A
34 VOLUNTARY ASSIGNMENT SHALL BE GIVEN TO THE AGENCY NOT LATER THAN 60
35 DAYS BEFORE THE DATE ON WHICH THE PAYMENT IS TO BE MADE.
36 (V) BEGINNING OCTOBER 1, 2006, THE AGENCY, NOT LATER THAN 30
37 DAYS AFTER RECEIVING A CERTIFIED COPY OF A COURT ORDER APPROVING A
38 VOLUNTARY ASSIGNMENT, SHALL SEND THE ASSIGNOR AND THE ASSIGNEE
39 WRITTEN CONFIRMATION OF:

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1 1. THE COURT-APPROVED ASSIGNMENT; AND
2 2. THE INTENT OF THE AGENCY TO RELY ON THE
3 ASSIGNMENT IN MAKING PAYMENTS TO THE ASSIGNEE NAMED IN THE ORDER.
4 (VI) A VOLUNTARY ASSIGNMENT MAY NOT INCLUDE OR COVER
5 PAYMENTS OR PARTS OF PAYMENTS TO THE EXTENT THAT THE PAYMENTS ARE
6 SUBJECT TO CHILD SUPPORT PAYMENTS, CRIMINAL RESTITUTION, OR BANKRUPTCY
7 PROCEEDINGS AS OF THE DATE OF THE COURT ORDER APPROVING A VOLUNTARY
8 ASSIGNMENT.
9 (VII) 1. THE AGENCY, THE COMMISSION, AND OFFICIALS AND
10 EMPLOYEES OF THE AGENCY ARE NOT LIABLE UNDER THIS PARAGRAPH AFTER
11 PAYMENT OF AN ASSIGNED PRIZE IS MADE.
12 2. THE ASSIGNOR AND ASSIGNEE SHALL HOLD HARMLESS
13 AND INDEMNIFY THE AGENCY, THE COMMISSION, AND THE STATE AND ITS
14 EMPLOYEES AND AGENTS FROM ALL CLAIMS, SUITS, ACTIONS, COMPLAINTS, OR
15 LIABILITIES RELATED TO THE ASSIGNMENT.
16 (VIII) 1. THE AGENCY MAY ESTABLISH A REASONABLE FEE TO
17 DEFRAY ADMINISTRATIVE EXPENSES ASSOCIATED WITH ASSIGNMENTS MADE
18 UNDER THIS SECTION, INCLUDING A PROCESSING FEE IMPOSED BY A PRIVATE
19 ANNUITY PROVIDER.
20 2. THE AMOUNT OF THE FEE SHALL REFLECT THE DIRECT
21 AND INDIRECT COSTS OF PROCESSING ASSIGNMENTS.
22 (IX) 1. A CONTRACT OF ASSIGNMENT IN WHICH THE ASSIGNOR IS
23 A LOTTERY WINNER SHALL INCLUDE A SWORN AFFIDAVIT IN A FORM THAT THE
24 AGENCY PROVIDES AND THE ASSIGNEE COMPLETES.
25 2. UNTIL THE AGENCY PROVIDES THE FORM, AN ASSIGNEE
26 MAY USE ITS OWN FORM THAT INCLUDES THE INFORMATION REQUIRED IN
27 SUBSUBPARAGRAPH 3 OF THIS SUBPARAGRAPH.
28 3. THE AFFIDAVIT SHALL INCLUDE:
29 A. A SUMMARY OF ASSIGNEE CONTACTS WITH THE WINNER;
30 B. A SUMMARY OF ANY COMPLAINTS, LAWSUITS, CLAIMS, OR
31 OTHER LEGAL ACTIONS FROM LOTTERY WINNERS REGARDING CONDUCT OF THE
32 ASSIGNEE OR ITS AGENTS;
33 C. A STATEMENT THAT THE ASSIGNEE IS REGISTERED TO DO
34 BUSINESS IN THE STATE AND IS IN GOOD STANDING WITH THE DEPARTMENT OF
35 ASSESSMENTS AND TAXATION AND ANY OTHER LICENSING OR REGULATORY UNIT
36 WHOSE APPROVAL IS REQUIRED IN THE CONDUCT OF THE ASSIGNEE'S BUSINESS;
37 D. A BRIEF BUSINESS HISTORY OF THE ASSIGNEE;

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1 E. A DESCRIPTION OF THE BUSINESS OF THE ASSIGNEE; AND

2 F. A STATEMENT OF THE ASSIGNEE'S PRIVACY AND

3 NONHARASSMENT POLICIES AND EXPRESS AFFIRMATION THAT THE ASSIGNEE HAS
4 FOLLOWED THOSE POLICIES IN THE STATE.

5 4. THE AFFIDAVIT SHALL BE PROVIDED ONLY BY THE

6 ASSIGNEE WHO ENTERS INTO THE CONTRACT WITH THE LOTTERY WINNER OR THE
7 ESTATE OF A LOTTERY WINNER.

8 (X) THE ASSIGNEE SHALL NOTIFY THE AGENCY OF ITS BUSINESS

9 LOCATION AND MAILING ADDRESS FOR PAYMENT PURPOSES AND OF ANY CHANGE
10 IN LOCATION OR ADDRESS DURING THE ENTIRE COURSE OF THE ASSIGNMENT.

11 (XI) AN ASSIGNMENT MAY BE MADE BY A HUSBAND AND WIFE WHO

12 ARE CO-OWNERS OF A PRIZE ONLY IF THEY JOINTLY ASSIGN THE PRIZE TO AN
13 ASSIGNEE.

14 (XII) 1. A COURT ORDER OR A COMBINATION OF COURT ORDERS

15 UNDER THIS SECTION MAY NOT REQUIRE THE AGENCY TO DIVIDE A SINGLE PRIZE
16 PAYMENT AMONG MORE THAN THREE DIFFERENT PERSONS.

17 2. THIS SECTION DOES NOT PROHIBIT THE SUBSTITUTION

18 OF ASSIGNEES AS LONG AS THERE ARE NOT MORE THAN THREE ASSIGNEES AT ANY
19 ONE TIME FOR ANY ONE PRIZE PAYMENT.

20 3. ANY SUBSEQUENT ASSIGNEE IS BOUND AS THE ORIGINAL

21 ASSIGNEE BY THE PROVISIONS OF THIS SECTION AND THE TERMS AND CONDITIONS
22 OF THE CONTRACT OF ASSIGNMENT.

23 (XIII) IF THE INTERNAL REVENUE SERVICE OR A COURT OF

24 COMPETENT JURISDICTION ISSUES A DETERMINATION LETTER, REVENUE RULING,
25 OR OTHER PUBLIC DOCUMENT DECLARING THAT THE VOLUNTARY ASSIGNMENT OF
26 PRIZES WILL AFFECT THE FEDERAL INCOME TAX TREATMENT OF LOTTERY PRIZE
27 WINNERS WHO DO NOT ASSIGN THEIR PRIZES:

28 1. WITHIN 15 DAYS AFTER THE AGENCY RECEIVES THE

29 LETTER, RULING, OR OTHER DOCUMENT, THE DIRECTOR OF THE AGENCY SHALL
30 FILE A COPY OF IT WITH THE ATTORNEY GENERAL; AND

31 2. A COURT MAY NOT ISSUE AN ORDER AUTHORIZING A

32 VOLUNTARY ASSIGNMENT UNDER THIS PARAGRAPH.

33 (XIV) THIS PARAGRAPH SHALL PREVAIL OVER ANY INCONSISTENT

34 PROVISION IN § 9-406 OF THE COMMERCIAL LAW ARTICLE.

35 (XV) A CONTRACT OR AGREEMENT MADE OR ENTERED INTO ON OR

36 BEFORE MAY 31, 2006, THAT PURPORTS TO VOLUNTARILY ASSIGN OR GRANT AN
37 INTEREST IN PRIZE PAYMENTS IS VOID.

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1 (c) A licensed agent may pay in cash game prizes of not more than \$5,000.

2 (d) (1) In this subsection, the words "bank" and "guardian" and references to
3 a "member" of a "minor's family" have the meanings stated in § 13-301 of the Estates
4 and Trusts Article.

5 (2) If a minor wins a prize of less than \$5,000, the Director may give a
6 draft, as provided for in rules and regulations of the Agency payable to the order of
7 the minor, to:

8 (i) an adult member of the minor's family; or

9 (ii) a guardian of the minor.

10 (3) If a minor wins \$5,000 or more, the Director may deposit the prize in
11 a bank to the credit of 1 of the following, as custodian for the minor:

12 (i) an adult member of the minor's family; or

13 (ii) a guardian of the minor.

14 (4) A custodian under paragraph (3) of this subsection has the same
15 powers and duties as a custodian under the Maryland Uniform Transfers to Minors
16 Act.

17 (e) On payment of a prize in accordance with this section, the Director is
18 discharged of all liability.

19 (f) (1) A prize winner shall claim a prize within 182 days after the drawing
20 in which the prize is won.

21 (2) Except as provided in paragraph (3) of this subsection, the Director
22 shall keep an unclaimed prize:

23 (i) for 182 days after the drawing in which the prize is won, for
24 payment of the winner; and

25 (ii) then in an unclaimed prize fund for use for other prizes.

26 (3) For a game that the Agency designates as a bonus game or drawing
27 and that is not a daily or weekly State lottery drawing, the period for claiming a prize
28 may differ from the period set in paragraph (2) of this subsection.

29 (g) (1) Unless otherwise specifically provided by the laws of the State, and
30 except for prizes paid for any multistate lottery game, the State and every officer,
31 department, agency, board, commission, or other unit of State government may not
32 raise the defense of sovereign immunity in the courts of the State in an action in
33 contract brought by an annuitant or prize winner that is based on the liability of the
34 State to pay an annuitant or prize winner the prize that the annuitant is entitled to
35 receive in accordance with this subtitle and any regulations adopted under this
36 subtitle.

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1 (2) Notwithstanding any other provision of law, the State may raise the
2 defense of sovereign immunity to a contract action brought by an annuitant or prize
3 winner of any multistate lottery game, for any claim that exceeds \$200,000.

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 June 1, 2006.

