
By: **Delegate C. Davis**

Introduced and read first time: February 11, 2004

Assigned to: Ways and Means

A BILL ENTITLED

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; establishing certain requirements
5 for assignors and assignees; requiring that assignees be advised by certain
6 persons regarding the assignment; requiring assignors to provide assignees and
7 the State Lottery Agency's counsel with certain documents; requiring that
8 certain notice be given to the State Lottery Agency at a certain time; prohibiting
9 assignments from including certain payments; discharging the State Lottery
10 Agency, its officials, and employees, from liability under certain circumstances;
11 authorizing the State Lottery Agency to establish a certain fee; prohibiting a
12 court from allowing an assignment under certain circumstances; making the
13 defense of sovereign immunity inapplicable in a certain legal action; and
14 generally relating to the State lottery.

15 BY repealing and reenacting, with amendments,
16 Article - State Government
17 Section 9-122
18 Annotated Code of Maryland
19 (1999 Replacement Volume and 2003 Supplement)

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

22 **Article - State Government**

23 9-122.

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

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

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

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

5 (4) (I) THE RIGHT OF A PERSON TO RECEIVE PAYMENT UNDER A
6 PRIZE THAT IS PAID IN INSTALLMENTS OVER TIME BY THE AGENCY MAY BE
7 VOLUNTARILY ASSIGNED AS A WHOLE OR IN PART, IF THE ASSIGNMENT IS MADE TO
8 A PERSON DESIGNATED IN ACCORDANCE WITH AN ORDER OF A COURT OF
9 COMPETENT JURISDICTION IN THE JUDICIAL DISTRICT WHERE THE ASSIGNING
10 PRIZE WINNER RESIDES OR WHERE THE HEADQUARTERS OF THE AGENCY IS
11 LOCATED.

12 (II) A COURT MAY ISSUE AN ORDER APPROVING A VOLUNTARY
13 ASSIGNMENT AND DIRECTING THE AGENCY TO MAKE PRIZE PAYMENTS AS A WHOLE
14 OR IN PART TO THE ASSIGNEE IF THE COURT FINDS THAT:

15 1. THE ASSIGNMENT IS IN WRITING, IS EXECUTED BY THE
16 ASSIGNOR, AND IS BY ITS TERMS SUBJECT TO THE STATE;

17 2. THE ASSIGNOR PROVIDES A SWORN AFFIDAVIT
18 ATTESTING THAT THE ASSIGNOR IS OF SOUND MIND, IS IN FULL COMMAND OF THE
19 ASSIGNOR'S FACULTIES, AND IS NOT ACTING UNDER DURESS;

20 3. THE ASSIGNOR HAS BEEN ADVISED ABOUT THE
21 ASSIGNMENT BY AN INDEPENDENT ATTORNEY WHO IS NOT RELATED TO AND NOT
22 COMPENSATED BY THE ASSIGNEE OR AN AFFILIATE OF THE ASSIGNEE;

23 4. THE ASSIGNOR HAS RECEIVED INDEPENDENT FINANCIAL
24 OR TAX ADVICE CONCERNING THE EFFECTS OF THE ASSIGNMENT FROM AN
25 ATTORNEY OR OTHER PROFESSIONAL WHO IS UNRELATED TO AND IS NOT
26 COMPENSATED BY THE ASSIGNEE OR AN AFFILIATE OF THE ASSIGNEE;

27 5. THE ASSIGNOR UNDERSTANDS THAT THE ASSIGNOR WILL
28 NOT RECEIVE THE PRIZE PAYMENTS OR PARTS OF PAYMENTS DURING THE YEARS
29 ASSIGNED;

30 6. THE ASSIGNOR UNDERSTANDS AND AGREES THE AGENCY
31 AND OFFICIALS AND EMPLOYEES OF THE AGENCY ARE NOT LIABLE OR RESPONSIBLE
32 FOR MAKING THE ASSIGNED PAYMENTS; AND

33 7. THE ASSIGNEE PROVIDES THE ASSIGNOR WITH A
34 ONE-PAGE DISCLOSURE STATEMENT THAT SETS FORTH IN BOLD TYPE NOT LESS
35 THAN 14 POINTS IN SIZE THE PAYMENTS BEING ASSIGNED BY AMOUNT AND
36 PAYMENT DATE, THE PURCHASE PRICE, THE RATE OF DISCOUNT TO PRESENT VALUE
37 ASSUMING DAILY COMPOUNDING AND FUNDING ON THE CONTRACT DATE, AND ANY
38 ORIGINATION OR CLOSING FEE THAT WILL BE CHARGED TO THE ASSIGNOR.

1 (III) 1. WRITTEN NOTICE OF THE PROPOSED ASSIGNMENT AND
2 ANY COURT HEARING CONCERNING THE PROPOSED ASSIGNMENT SHALL BE GIVEN
3 TO THE AGENCY'S COUNSEL AT LEAST 10 DAYS BEFORE A COURT HEARING.

4 2. THE AGENCY NEED NOT APPEAR IN OR BE NAMED AS
5 PARTY TO AN ACTION THAT SEEKS JUDICIAL CONFIRMATION OF AN ASSIGNMENT
6 BUT MAY INTERVENE AS OF RIGHT IN THE ACTION.

7 3. A CERTIFIED COPY OF A COURT ORDER APPROVING A
8 VOLUNTARY ASSIGNMENT SHALL BE GIVEN TO THE AGENCY NOT LATER THAN 14
9 DAYS BEFORE THE DATE ON WHICH THE PAYMENT IS TO BE MADE.

10 (IV) A VOLUNTARY ASSIGNMENT MAY NOT INCLUDE OR COVER
11 PAYMENTS OR PARTS OF PAYMENTS THAT HAVE BEEN ASSIGNED IN ACCORDANCE
12 WITH § 10-113.1 OF THE FAMILY LAW ARTICLE AND § 11-618 OF THE CRIMINAL
13 PROCEDURE ARTICLE.

14 (V) THE AGENCY AND OFFICIALS AND EMPLOYEES OF THE AGENCY
15 ARE NOT LIABLE UNDER THIS PARAGRAPH AFTER PAYMENT OF AN ASSIGNED PRIZE
16 IS MADE.

17 (VI) 1. THE AGENCY MAY ESTABLISH A REASONABLE FEE TO
18 DEFRAY ADMINISTRATIVE EXPENSES ASSOCIATED WITH ASSIGNMENTS MADE
19 UNDER THIS SECTION, INCLUDING A PROCESSING FEE IMPOSED BY A PRIVATE
20 ANNUITY PROVIDER.

21 2. THE AMOUNT OF THE FEE SHALL REFLECT THE DIRECT
22 AND INDIRECT COSTS OF PROCESSING ASSIGNMENTS.

23 (VII) 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. THE DIRECTOR OF THE AGENCY SHALL IMMEDIATELY
29 FILE A COPY OF THE DOCUMENT WITH THE ATTORNEY GENERAL; AND

30 2. A COURT MAY NOT ISSUE AN ORDER AUTHORIZING A
31 VOLUNTARY ASSIGNMENT UNDER THIS PARAGRAPH.

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

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

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

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

2 (ii) a guardian of the minor.

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

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

6 (ii) a guardian of the minor.

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

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

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

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

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

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

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

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

30 (2) (I) SUBPARAGRAPH (II) OF THIS PARAGRAPH DOES NOT APPLY TO
31 SUBSECTION (B)(4) OF THIS SECTION.

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

35 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
36 effect October 1, 2004.

