
By: **Delegate C. Davis**
Introduced and read first time: February 11, 2004
Assigned to: Ways and Means

Committee Report: Favorable with amendments
House action: Adopted
Read second time: March 31, 2004

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; ~~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 under certain~~
8 ~~circumstances; authorizing a court to issue an order approving a voluntary~~
9 ~~assignment if assignors and assignees meet certain requirements; authorizing a~~
10 ~~court to order a voluntary assignment if the court makes a certain finding;~~
11 requiring that certain notice be given to the State Lottery Agency at a certain
12 time; prohibiting assignments from including certain payments; discharging the
13 State Lottery Agency, its officials, and employees, from liability under certain
14 circumstances; providing that certain persons be held harmless and be
15 indemnified from certain proceedings related to the assignment; authorizing the
16 State Lottery Agency to establish a certain fee; requiring that a contract of
17 assignment include a certain affidavit completed by the assignee; specifying
18 certain contents of the affidavit; requiring that the assignee notify the State
19 Lottery Agency of certain information under certain circumstances; requiring
20 that a husband and wife who are co-owners of a prize assign the prize in a
21 certain way; prohibiting certain court orders from requiring the State Lottery
22 Agency to divide a single prize payment in a certain way; allowing the
23 substitution of assignees under certain circumstances; prohibiting a court from
24 allowing an assignment under certain circumstances; ~~making the defense of~~
25 ~~sovereign immunity inapplicable in a certain legal action;~~ and generally relating
26 to the State lottery.

27 BY repealing and reenacting, with amendments,

1 Article - State Government
2 Section 9-122
3 Annotated Code of Maryland
4 (1999 Replacement Volume and 2003 Supplement)

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

7 **Article - State Government**

8 9-122.

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

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

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

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

18 (4) (I) THE RIGHT OF A PERSON TO RECEIVE PAYMENT UNDER A
19 PRIZE THAT IS PAID IN INSTALLMENTS OVER TIME BY THE AGENCY MAY BE
20 VOLUNTARILY ASSIGNED AS A WHOLE OR IN PART, IF THE ASSIGNMENT IS MADE TO
21 A PERSON DESIGNATED IN ACCORDANCE WITH AN ORDER OF A COURT OF
22 COMPETENT JURISDICTION IN THE JUDICIAL DISTRICT WHERE THE ASSIGNING
23 PRIZE WINNER RESIDES OR WHERE THE HEADQUARTERS OF THE AGENCY IS
24 LOCATED.

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

28 1. THE ASSIGNMENT IS IN WRITING, IS EXECUTED BY THE
29 ASSIGNOR, AND IS BY ITS TERMS SUBJECT TO THE LAWS OF THIS STATE;

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

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

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

5 5. THE ASSIGNOR UNDERSTANDS THAT THE ASSIGNOR WILL
6 NOT RECEIVE THE PRIZE PAYMENTS OR PARTS OF PAYMENTS DURING THE YEARS
7 ASSIGNED;

8 6. THE ASSIGNOR UNDERSTANDS AND AGREES THE AGENCY,
9 COMMISSION, AND OFFICIALS AND EMPLOYEES OF THE AGENCY ARE NOT LIABLE OR
10 RESPONSIBLE FOR MAKING THE ASSIGNED PAYMENTS; ~~AND~~

11 7. THE ASSIGNEE PROVIDES THE ASSIGNOR WITH A
12 ONE-PAGE DISCLOSURE STATEMENT THAT SETS FORTH IN BOLD TYPE NOT LESS
13 THAN 14 POINTS IN SIZE THE PAYMENTS BEING ASSIGNED BY AMOUNT AND
14 PAYMENT DATE, THE PURCHASE PRICE, THE RATE OF DISCOUNT TO PRESENT VALUE
15 ASSUMING DAILY COMPOUNDING AND FUNDING ON THE CONTRACT DATE, AND ANY
16 ORIGATION OR CLOSING FEE THAT WILL BE CHARGED TO THE ASSIGNOR;

17 8. FOR AN ASSIGNOR UNDER 70 YEARS OF AGE, THE RATE OF
18 DISCOUNT TO PRESENT VALUE, ASSUMING DAILY COMPOUNDING AND FUNDING ON
19 THE CONTRACT DATE, MINUS ANY ORIGATION OR CLOSING FEE THAT WILL BE
20 CHARGED TO THE ASSIGNOR, DOES NOT EXCEED 5 PERCENTAGE POINTS OVER THE
21 WALL STREET JOURNAL PRIME RATE PUBLISHED ON THE BUSINESS DAY BEFORE
22 THE DATE OF THE CONTRACT;

23 9. FOR AN ASSIGNOR 70 YEARS OF AGE OR OLDER, THE RATE
24 OF DISCOUNT TO PRESENT VALUE, ASSUMING DAILY COMPOUNDING AND FUNDING
25 ON THE CONTRACT DATE, MINUS ANY ORIGATION OR CLOSING FEE THAT WILL BE
26 CHARGED TO THE ASSIGNOR, DOES NOT EXCEED THE WALL STREET JOURNAL PRIME
27 RATE PUBLISHED ON THE BUSINESS DAY BEFORE THE DATE OF THE CONTRACT; AND

28 10. THE CONTRACT OF ASSIGNMENT EXPRESSLY STATES
29 THAT THE ASSIGNOR HAS 5 BUSINESS DAYS AFTER SIGNING THE CONTRACT TO
30 CANCEL THE ASSIGNMENT.

31 (III) 1. WRITTEN NOTICE OF THE PROPOSED ASSIGNMENT AND
32 ANY COURT HEARING CONCERNING THE PROPOSED ASSIGNMENT SHALL BE GIVEN
33 TO THE AGENCY'S COUNSEL AT LEAST ~~40~~ 30 DAYS BEFORE A COURT HEARING.

34 2. THE AGENCY NEED NOT APPEAR IN OR BE NAMED AS
35 PARTY TO AN ACTION THAT SEEKS JUDICIAL ~~CONFIRMATION~~ APPROVAL OF AN
36 ASSIGNMENT BUT MAY INTERVENE AS OF RIGHT IN THE ACTION.

37 3. A CERTIFIED COPY OF A COURT ORDER APPROVING A
38 VOLUNTARY ASSIGNMENT SHALL BE GIVEN TO THE AGENCY NOT LATER THAN ~~44~~ 60
39 DAYS BEFORE THE DATE ON WHICH THE PAYMENT IS TO BE MADE.

1 (IV) A VOLUNTARY ASSIGNMENT MAY NOT INCLUDE OR COVER
2 PAYMENTS OR PARTS OF PAYMENTS ~~THAT HAVE BEEN ASSIGNED IN ACCORDANCE~~
3 ~~WITH § 10-113.1 OF THE FAMILY LAW ARTICLE AND § 11-618 OF THE CRIMINAL~~
4 ~~PROCEDURE ARTICLE TO THE EXTENT THAT THE PAYMENTS ARE SUBJECT TO CHILD~~
5 ~~SUPPORT PAYMENTS, CRIMINAL RESTITUTION, OR BANKRUPTCY PROCEEDINGS.~~

6 (V) 1. THE AGENCY, THE COMMISSION, AND OFFICIALS AND
7 EMPLOYEES OF THE AGENCY ARE NOT LIABLE UNDER THIS PARAGRAPH AFTER
8 PAYMENT OF AN ASSIGNED PRIZE IS MADE.

9 2. THE ASSIGNOR AND ASSIGNEE SHALL HOLD HARMLESS
10 AND INDEMNIFY THE AGENCY, THE COMMISSION, AND THE STATE AND ITS
11 EMPLOYEES AND AGENTS FROM ALL CLAIMS, SUITS, ACTIONS, COMPLAINTS, OR
12 LIABILITIES RELATED TO THE ASSIGNMENT.

13 (VI) 1. THE AGENCY MAY ESTABLISH A REASONABLE FEE TO
14 DEFRAY ADMINISTRATIVE EXPENSES ASSOCIATED WITH ASSIGNMENTS MADE
15 UNDER THIS SECTION, INCLUDING A PROCESSING FEE IMPOSED BY A PRIVATE
16 ANNUITY PROVIDER.

17 2. THE AMOUNT OF THE FEE SHALL REFLECT THE DIRECT
18 AND INDIRECT COSTS OF PROCESSING ASSIGNMENTS.

19 (VII) 1. A CONTRACT OF ASSIGNMENT IN WHICH THE ASSIGNOR IS
20 A LOTTERY WINNER SHALL INCLUDE A SWORN AFFIDAVIT PROVIDED BY THE
21 AGENCY AND COMPLETED BY THE ASSIGNEE.

22 2. THE AFFIDAVIT SHALL INCLUDE:

23 A. A SUMMARY OF ASSIGNEE CONTACTS WITH THE WINNER;

24 B. A SUMMARY OF ANY COMPLAINTS, LAWSUITS, CLAIMS, OR
25 OTHER LEGAL ACTIONS FROM LOTTERY WINNERS REGARDING CONDUCT OF THE
26 ASSIGNEE OR ITS AGENTS;

27 C. A STATEMENT THAT THE ASSIGNEE IS REGISTERED TO DO
28 BUSINESS IN THE STATE AND IS IN GOOD STANDING WITH THE DEPARTMENT OF
29 ASSESSMENTS AND TAXATION AND ANY OTHER LICENSING OR REGULATORY UNIT
30 WHOSE APPROVAL IS REQUIRED IN THE CONDUCT OF THE ASSIGNEE'S BUSINESS;

31 D. A BRIEF BUSINESS HISTORY OF THE ASSIGNEE;

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

33 F. A STATEMENT OF THE ASSIGNEE'S PRIVACY AND
34 NONHARASSMENT POLICIES AND EXPRESS AFFIRMATION THAT THE ASSIGNEE HAS
35 FOLLOWED THOSE POLICIES IN THE STATE.

1 3. THE AFFIDAVIT SHALL BE PROVIDED ONLY BY THE
2 ASSIGNEE WHO ENTERS INTO THE CONTRACT WITH THE LOTTERY WINNER OR THE
3 ESTATE OF A LOTTERY WINNER.

4 (VIII) THE ASSIGNEE SHALL NOTIFY THE AGENCY OF ITS BUSINESS
5 LOCATION AND MAILING ADDRESS FOR PAYMENT PURPOSES AND OF ANY CHANGE
6 IN LOCATION OR ADDRESS DURING THE ENTIRE COURSE OF THE ASSIGNMENT.

7 (IX) AN ASSIGNMENT MAY BE MADE BY A HUSBAND AND WIFE WHO
8 ARE CO-OWNERS OF A PRIZE ONLY IF THEY JOINTLY ASSIGN THE PRIZE TO AN
9 ASSIGNEE.

10 (X) 1. A COURT ORDER OR A COMBINATION OF COURT ORDERS
11 UNDER THIS SECTION MAY NOT REQUIRE THE AGENCY TO DIVIDE A SINGLE PRIZE
12 PAYMENT AMONG MORE THAN THREE DIFFERENT PERSONS.

13 2. THIS SECTION DOES NOT PROHIBIT THE SUBSTITUTION
14 OF ASSIGNEES AS LONG AS THERE ARE NOT MORE THAN THREE ASSIGNEES AT ANY
15 ONE TIME FOR ANY ONE PRIZE PAYMENT.

16 (XI) IF THE INTERNAL REVENUE SERVICE OR A COURT OF
17 COMPETENT JURISDICTION ISSUES A DETERMINATION LETTER, REVENUE RULING,
18 OR OTHER PUBLIC DOCUMENT DECLARING THAT THE VOLUNTARY ASSIGNMENT OF
19 PRIZES WILL AFFECT THE FEDERAL INCOME TAX TREATMENT OF LOTTERY PRIZE
20 WINNERS WHO DO NOT ASSIGN THEIR PRIZES:

21 1. THE DIRECTOR OF THE AGENCY SHALL IMMEDIATELY
22 FILE A COPY OF THE DOCUMENT WITH THE ATTORNEY GENERAL; AND

23 2. A COURT MAY NOT ISSUE AN ORDER AUTHORIZING A
24 VOLUNTARY ASSIGNMENT UNDER THIS PARAGRAPH.

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

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

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

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

33 (ii) a guardian of the minor.

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

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

1 (ii) a guardian of the minor.

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

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

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

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

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

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

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

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

25 (2) ~~(H) SUBPARAGRAPH (II) OF THIS PARAGRAPH DOES NOT APPLY TO~~
26 ~~SUBSECTION (B)(4) OF THIS SECTION.~~

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

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

