# Department of Legislative Services

Maryland General Assembly
2004 Session

## FISCAL AND POLICY NOTE
Revised

House Bill 903 (Delegate C. Davis)
Ways and Means Finance

**State Lottery - Prize Winners - Voluntary Assignments**

This bill authorizes prize winners of the State lottery to voluntarily assign prizes that are paid in installments, provided that specified conditions are met. The bill establishes the procedures which must be undertaken by assignors and assignees prior to any such assignment. An assignment may not include or cover payments subject to child support payments, criminal restitution, or bankruptcy proceedings. The Lottery Agency is authorized to establish a fee to defray administrative expenses.

## Fiscal Summary

**State Effect:** Special fund revenues could increase in FY 2005 and beyond due to the imposition of a fee on voluntary assignments by the Lottery Agency. The amount of these fees would depend on the number of prizes that are assigned and the level of the fee. Special fund expenditure increase of approximately $23,000 in FY 2005, which reflects the hiring of a contractual administrative clerk to handle any initial surge in applications. Assuming a $1,000 fee, revenues are likely to cover administrative costs.

| (in dollars) | FY 2005 | FY 2006 | FY 2007 | FY 2008 | FY 2009 |
|---|---|---|---|---|---|
| SF Revenue | - | - | - | - | - |
| SF Expenditure | 23,000 | 0 | 0 | 0 | 0 |
| Net Effect | ($23,000) | $0 | $0 | $0 | $0 |

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect*

**Local Effect:** None.

**Small Business Effect:** None.

## Analysis

**Bill Summary:** The bill provides that lottery prizes paid in installments can be voluntarily assigned if certain conditions are met, including:

- The State is held harmless by the assignee and assignor as a result of the voluntary assignment.
- The assignor has five business days after signing the contract to cancel the agreement.
- A written notice of intent to voluntarily assign a winning is provided to the State Lottery Agency's counsel at least 30 days before the court hearing of the assignment and a certified copy of the court order of assignment is provided to the agency 60 days before the date on which payment is to be made.
- If the assignor is less than 70 years old, the rate of discount used to calculate payment to the assignor minus any fees charged to the assignor may not exceed the prime rate as published in the *Wall Street Journal* the business day before the date of contract. If the assignor is more than 70 years old, the rate of discount previously described may not exceed the discount rate plus five percentage points. There is no limit on the fees that can be charged to an assignor.
- A voluntary assignment contract must include an affidavit provided by the State Lottery Agency and completed by the assignee that includes information such as statements that: (1) the assignee is registered to do business in the State and is in good standing with the State Department of Assessments and Taxation (SDAT) and applicable State regulatory agencies; (2) the assignee has, and adheres to privacy and nonharassment policies; and (3) includes any complaints and lawsuits regarding voluntary assignments against the assignee.
- If a winning is jointly owned by a husband and wife, both must agree to the assignment.

In addition, the State Lottery Agency is not liable to split a lottery winning to more than three individuals at any given time.

**Current Law:** Except under specified conditions, lottery prizes are not assignable. These exceptions are: (1) interceptions of winnings to pay a delinquent child support obligation; (2) interceptions of winnings to pay overdue restitution as part of criminal proceedings; (3) payment to the estate of a deceased prize winner; and (4) payments under an appropriate court order where the court is disposing of the lottery prize as a remedy and not voluntary assignment.

**Background:** In 2001, the Lottery Agency offered all existing winners the opportunity to cash out their remaining annual payments for a one-time lump sum payment. Of the

800 winners eligible, 120 took the lump sum payment. Payments were paid at full market value and totaled over $70 million.

**State Fiscal Effect:** The Lottery Agency has determined that three regular full-time positions are needed to implement this bill. However, the Department of Legislative Services advises that the added responsibilities that cannot be absorbed within existing resources are not permanent and thus could be performed by a contractual employee. This estimate reflects the cost of hiring one administrative clerk to enter applications and perform administrative duties. It includes a salary, fringe benefits, one-time start-up costs, and ongoing operating expenses.

| | |
|---|---|
| Salary and Fringe Benefits | $21,275 |
| Equipment | 1,500 |
| Operating Expenses | 240 |
| **Total FY 2005 State Expenditures** | **$23,015** |

This estimate is based on the experience of the Texas Lottery Commission. Texas lottery winnings may be voluntarily assigned. The Texas Lottery Commission advises that in the initial time period after lottery prizes were authorized to be transferable, a substantial number of applications were received. Due to the initial applications, an administrative clerk was needed to manage the documentation process. In addition, one fiscal analyst and an attorney spent part of their time reviewing applications, but additional staff was not hired as a result of the increased workload. The Texas Lottery Commission also advised that a fee of $500 imposed on voluntary transfers offset any costs incurred after the initial numbers of applications were received.

It is also estimated that the impact on the Maryland Lottery Agency will be less than the impact on the Texas Lottery Commission to the extent that there is likely a fewer number of individuals in Maryland who will assign lottery winnings. For example, in fiscal 2002, Texas Lottery lotto sales totaled $594 million as compared to Maryland lotto, mega millions, and cash lotto sales of approximately $142 million.

Special fund revenues could increase in fiscal 2005 and beyond due to the imposition of a fee on voluntary assignments by the Lottery Agency. The Lottery Agency advises that the agency is likely to assess a fee of up to $1,000 per voluntary assignment.

## Additional Information

**Prior Introductions:** HB 695 of 2003, an identical bill, was not reported from the House Ways and Means Committee.

**Cross File:** None.

**Information Source(s):** Judiciary (Administrative Office of the Courts), *LaFleur's 2003 World Lottery Almanac*, Maryland State Lottery Agency, Texas Lottery Commission, Department of Legislative Services

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