
By: **Delegate C. Davis**

Introduced and read first time: February 7, 2005

Assigned to: Ways and Means

Committee Report: Favorable

House action: Adopted

Read second time: March 24, 2005

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 court to issue an order approving a voluntary assignment if
6 assignors and assignees meet certain requirements; authorizing a court to order
7 a voluntary assignment if the court makes a certain finding; 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 providing that certain persons be held harmless and be indemnified from
12 certain proceedings related to the assignment; authorizing the State Lottery
13 Agency to establish a certain fee; requiring that a contract of assignment include
14 a certain affidavit completed by the assignee; specifying certain contents of the
15 affidavit; requiring that the assignee notify the State Lottery Agency of certain
16 information under certain circumstances; requiring that a husband and wife
17 who are co-owners of a prize assign the prize in a certain way; prohibiting
18 certain court orders from requiring the State Lottery Agency to divide a single
19 prize payment in a certain way; allowing the substitution of assignees under
20 certain circumstances; prohibiting a court from allowing an assignment under
21 certain circumstances; and generally relating to the State lottery.

22 BY repealing and reenacting, with amendments,
23 Article - State Government
24 Section 9-122
25 Annotated Code of Maryland
26 (2004 Replacement Volume)

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

3 **Article - State Government**

4 9-122.

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

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

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

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

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

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

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

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

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

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

1 5. THE ASSIGNOR UNDERSTANDS THAT THE ASSIGNOR WILL
2 NOT RECEIVE THE PRIZE PAYMENTS OR PARTS OF PAYMENTS DURING THE YEARS
3 ASSIGNED;

4 6. THE ASSIGNOR UNDERSTANDS AND AGREES THE AGENCY,
5 COMMISSION, AND OFFICIALS AND EMPLOYEES OF THE AGENCY ARE NOT LIABLE OR
6 RESPONSIBLE FOR MAKING THE ASSIGNED PAYMENTS;

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

13 8. THE CONTRACT OF ASSIGNMENT EXPRESSLY STATES
14 THAT THE ASSIGNOR HAS 5 BUSINESS DAYS AFTER SIGNING THE CONTRACT TO
15 CANCEL THE ASSIGNMENT.

16 (III) 1. WRITTEN NOTICE OF THE PROPOSED ASSIGNMENT AND
17 ANY COURT HEARING CONCERNING THE PROPOSED ASSIGNMENT SHALL BE GIVEN
18 TO THE AGENCY'S COUNSEL AT LEAST 30 DAYS BEFORE A COURT HEARING.

19 2. THE AGENCY NEED NOT APPEAR IN OR BE NAMED AS
20 PARTY TO AN ACTION THAT SEEKS JUDICIAL APPROVAL OF AN ASSIGNMENT BUT
21 MAY INTERVENE AS OF RIGHT IN THE ACTION.

22 3. A CERTIFIED COPY OF A COURT ORDER APPROVING A
23 VOLUNTARY ASSIGNMENT SHALL BE GIVEN TO THE AGENCY NOT LATER THAN 60
24 DAYS BEFORE THE DATE ON WHICH THE PAYMENT IS TO BE MADE.

25 (IV) A VOLUNTARY ASSIGNMENT MAY NOT INCLUDE OR COVER
26 PAYMENTS OR PARTS OF PAYMENTS TO THE EXTENT THAT THE PAYMENTS ARE
27 SUBJECT TO CHILD SUPPORT PAYMENTS, CRIMINAL RESTITUTION, OR BANKRUPTCY
28 PROCEEDINGS.

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

32 2. THE ASSIGNOR AND ASSIGNEE SHALL HOLD HARMLESS
33 AND INDEMNIFY THE AGENCY, THE COMMISSION, AND THE STATE AND ITS
34 EMPLOYEES AND AGENTS FROM ALL CLAIMS, SUITS, ACTIONS, COMPLAINTS, OR
35 LIABILITIES RELATED TO THE ASSIGNMENT.

36 (VI) 1. THE AGENCY MAY ESTABLISH A REASONABLE FEE TO
37 DEFRAY ADMINISTRATIVE EXPENSES ASSOCIATED WITH ASSIGNMENTS MADE
38 UNDER THIS SECTION, INCLUDING A PROCESSING FEE IMPOSED BY A PRIVATE
39 ANNUITY PROVIDER.

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

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

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

15 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
16 effect July 1, 2005.