## **UNOFFICIAL COPY OF HOUSE BILL 678**

P1 HB 903/04 - W&M						
By: Delegate C. Davis						
Introduced and read first time: February 7, 2005 Assigned to: Ways and Means						
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
- Agency, its officials, and employees, from liability under certain circumstances;
- 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
- 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
- information under certain circumstances; requiring that a husband and wife
- who are co-owners of a prize assign the prize in a certain way; prohibiting
- 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
- certain circumstances; prohibiting a court from allowing an assignment under 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)

- **UNOFFICIAL COPY OF HOUSE BILL 678** 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 The regulations of the Agency shall provide for winning tickets to be drawn (a) 6 at least once a week. Except as otherwise provided in this subsection, § 10-113.1 of the (b) (1) 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 Under appropriate court order, a prize won under this subtitle may 13 be paid to a person other than the winner. THE RIGHT OF A PERSON TO RECEIVE PAYMENT UNDER A 14 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. A COURT MAY ISSUE AN ORDER APPROVING A VOLUNTARY 21 (II)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 THE ASSIGNMENT IS IN WRITING, IS EXECUTED BY THE 1. 25 ASSIGNOR, AND IS BY ITS TERMS SUBJECT TO THE LAWS OF THIS STATE; THE ASSIGNOR PROVIDES A SWORN AFFIDAVIT 26 2. 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; 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. 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.

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1 2	2. THE AMOUNT OF THE FEE SHALL REFLECT THE DIRECT AND INDIRECT COSTS OF PROCESSING ASSIGNMENTS.
	(VII) 1. A CONTRACT OF ASSIGNMENT IN WHICH THE ASSIGNOR IS A LOTTERY WINNER SHALL INCLUDE A SWORN AFFIDAVIT PROVIDED BY THE AGENCY AND COMPLETED BY THE ASSIGNEE.
6	2. THE AFFIDAVIT SHALL INCLUDE:
7	A. A SUMMARY OF ASSIGNEE CONTACTS WITH THE WINNER;
	B. A SUMMARY OF ANY COMPLAINTS, LAWSUITS, CLAIMS, OR OTHER LEGAL ACTIONS FROM LOTTERY WINNERS REGARDING CONDUCT OF THE ASSIGNEE OR ITS AGENTS;
13	C. A STATEMENT THAT THE ASSIGNEE IS REGISTERED TO DO BUSINESS IN THE STATE AND IS IN GOOD STANDING WITH THE DEPARTMENT OF ASSESSMENTS AND TAXATION AND ANY OTHER LICENSING OR REGULATORY UNIT WHOSE APPROVAL IS REQUIRED IN THE CONDUCT OF THE ASSIGNEE'S BUSINESS;
15	D. A BRIEF BUSINESS HISTORY OF THE ASSIGNEE;
16	E. A DESCRIPTION OF THE BUSINESS OF THE ASSIGNEE; AND
	F. A STATEMENT OF THE ASSIGNEE'S PRIVACY AND NONHARASSMENT POLICIES AND EXPRESS AFFIRMATION THAT THE ASSIGNEE HAS FOLLOWED THOSE POLICIES IN THE STATE.
	3. THE AFFIDAVIT SHALL BE PROVIDED ONLY BY THE ASSIGNEE WHO ENTERS INTO THE CONTRACT WITH THE LOTTERY WINNER OR THE ESTATE OF A LOTTERY WINNER.
	(VIII) THE ASSIGNEE SHALL NOTIFY THE AGENCY OF ITS BUSINESS LOCATION AND MAILING ADDRESS FOR PAYMENT PURPOSES AND OF ANY CHANGE IN LOCATION OR ADDRESS DURING THE ENTIRE COURSE OF THE ASSIGNMENT.
	(IX) AN ASSIGNMENT MAY BE MADE BY A HUSBAND AND WIFE WHO ARE CO-OWNERS OF A PRIZE ONLY IF THEY JOINTLY ASSIGN THE PRIZE TO AN ASSIGNEE.

30 UNDER THIS SECTION MAY NOT REQUIRE THE AGENCY TO DIVIDE A SINGLE PRIZE

33 OF ASSIGNEES AS LONG AS THERE ARE NOT MORE THAN THREE ASSIGNEES AT ANY

36 COMPETENT JURISDICTION ISSUES A DETERMINATION LETTER, REVENUE RULING,

A COURT ORDER OR A COMBINATION OF COURT ORDERS

THIS SECTION DOES NOT PROHIBIT THE SUBSTITUTION

IF THE INTERNAL REVENUE SERVICE OR A COURT OF

29

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(X)

34 ONE TIME FOR ANY ONE PRIZE PAYMENT.

(XI)

31 PAYMENT AMONG MORE THAN THREE DIFFERENT PERSONS.

2.

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1 OR OTHER PUBLIC DOCUMENT DECLARING THAT THE VOLUNTARY ASSIGNMENT OF

			_	FEDERAL INCOME TAX TREATMENT OF LOTTERY PRIZE SSIGN THEIR PRIZES:			
4 5	FILE A COP	Y OF TH	HE DOCU	1. THE DIRECTOR OF THE AGENCY SHALL IMMEDIATELY JMENT WITH THE ATTORNEY GENERAL; AND			
6 7	VOLUNTAR	Y ASSI	GNMEN'	2. A COURT MAY NOT ISSUE AN ORDER AUTHORIZING A T UNDER THIS PARAGRAPH.			
8	(c)	A licens	ed agent	may pay in cash game prizes of not more than \$5,000.			
	(d) (1) In this subsection, the words "bank" and "guardian" and references to a "member" of a "minor's family" have the meanings stated in § 13-301 of the Estates and Trusts Article.						
	(2) If a minor wins a prize of less than \$5,000, the Director may give a draft, as provided for in rules and regulations of the Agency payable to the order of the minor, to:						
15			(i)	an adult member of the minor's family; or			
16			(ii)	a guardian of the minor.			
17 18		(3) credit of		or wins \$5,000 or more, the Director may deposit the prize in following, as custodian for the minor:			
19			(i)	an adult member of the minor's family; or			
20			(ii)	a guardian of the minor.			
	powers and c	(4) luties as		dian under paragraph (3) of this subsection has the same an under the Maryland Uniform Transfers to Minors			
24 25	(e) discharged o			prize in accordance with this section, the Director is			
26 27	(f) in which the	(1) prize is v		winner shall claim a prize within 182 days after the drawing			
28 29	shall keep an	(2) unclaim		as provided in paragraph (3) of this subsection, the Director			
30 31	payment of t	he winne	(i) er; and	for 182 days after the drawing in which the prize is won, for			
32			(ii)	then in an unclaimed prize fund for use for other prizes.			

- 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 Unless otherwise specifically provided by the laws of the State, and (g) (1) 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.
- Notwithstanding any other provision of law, the State may raise the 12 (2)
- 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.
- SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take 15 16 effect July 1, 2005.