

Department of Legislative Services
Maryland General Assembly
2006 Session

FISCAL AND POLICY NOTE

Senate Bill 48
Finance

(Senator Astle)

Ways and Means

State Lottery - Prize Winners - Voluntary Assignments

This bill authorizes prize winners of the State lottery to voluntarily assign all or part of prizes that are paid in installments, provided that specified conditions are met. The bill establishes the procedures that 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 as of the date of the court order approving the assignment. The Lottery Agency is authorized to establish a fee to defray administrative expenses.

The bill takes effect June 1, 2006.

Fiscal Summary

State Effect: Special fund revenues could increase in FY 2007 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 \$26,400 in FY 2007, which reflects the hiring of a contractual administrative clerk to handle any initial surge in applications. Assuming a \$500 fee, revenues are likely to cover administrative costs.

| (in dollars) | FY 2007 | FY 2008 | FY 2009 | FY 2010 | FY 2011 |
|----------------|------------|---------|---------|---------|---------|
| SF Revenue | - | - | - | - | - |
| SF Expenditure | 26,400 | 0 | 0 | 0 | 0 |
| Net Effect | (\$26,400) | \$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.
- A voluntary assignment contract must include an affidavit 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; (3) summarizes contacts with the assignor; and (4) includes any complaints and legal action regarding voluntary assignments against the assignee.
- If a winning is jointly owned by a husband and wife, both must agree to the assignment.

Petitions for voluntary assignments must be heard in the circuit court located in the county in which the State Lottery Agency is located. The agency is not required to appear in any related legal proceedings or to split a lottery winning to more than three individuals at any given time.

The provisions of the bill prevail over any inconsistencies regarding assignment of lottery winnings under the Uniform Commercial Code. The bill voids any contract or agreement to assign lottery winnings entered into before May 31, 2006.

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 (approximately 15%). Payments were paid at full market value and totaled over \$70 million. According to the Lottery Agency, there are currently 494 annuitants who could potentially assign lottery prizes.

Approximately 20 states allow lottery prizes to be assigned in some manner. Three lottery organizations from Texas, Virginia, and Pennsylvania provided information on their experiences after the authorization of voluntary assignments.

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.

The Pennsylvania Lottery advises that 722 lottery prizes out of a total of 3,500 annuitants (approximately 21%) have been voluntarily assigned since prizes could first be assigned in 1997. The Pennsylvania Lottery's experience mirrored Texas' in that initially many prizes were assigned. One staff attorney was required to attend the court proceedings in the initial period – each proceeding typically lasted five minutes. After this three-month period, however, an average of two to three prizes were assigned monthly. The agency also charges a \$500 fee on voluntary assignments.

Virginia lottery prize winners could voluntarily assign prizes beginning in 2003. The Virginia Lottery advises that far fewer than expected assignments have been executed – 26 assignments have been or will be soon finalized out of a total of 418 annuitants (approximately 6%).

State Fiscal Effect: The Lottery Agency has determined that two full-time fiscal accountants are needed to implement this bill. However, the Department of Legislative Services advises that, based on the experience of other states, the added responsibilities that cannot be absorbed within existing resources are not permanent and thus could be performed by a contractual employee. The number of annuitants who could voluntarily assign prizes is similar to the number in Virginia and well below Pennsylvania. The bill

stipulates that the Lottery Agency is not required to appear in a judicial proceeding approving a lottery assignment. 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. It is assumed that the increased workload at the agency will not materialize until July 1, 2006.

| | |
|---|-----------------|
| Salary and Fringe Benefits | \$24,000 |
| Equipment | 2,130 |
| Operating Expenses | <u>300</u> |
| Total FY 2007 State Expenditures | \$26,430 |

Special fund revenues could increase in fiscal 2007 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 \$500 per voluntary assignment.

Additional Information

Prior Introductions: The General Assembly passed HB 678 and SB 225 in 2005, substantially similar bills that were vetoed by the Governor. Similar bills were introduced in the 2004 and 2003 sessions. HB 903 of 2004 passed the House but received an unfavorable report from the Senate Finance Committee. HB 695 of 2003 was not reported from the House Ways and Means Committee.

Cross File: None.

Information Source(s): Maryland State Lottery Agency, Pennsylvania Lottery, Texas Lottery Commission, Virginia Lottery, Department of Legislative Services

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M/rhh

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