

ASSEMBLY, No. 988

STATE OF NEW JERSEY 208th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 1998 SESSION

Sponsored by:

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District 2 (Atlantic)

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SYNOPSIS

Permits assignment of State Lottery prizes under certain circumstances.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



1 AN ACT concerning the assignment of State Lottery prizes and
2 amending P.L.1970, c.13.

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4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

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7 1. Section 13 of P.L.1970, c.13 (C.5:9-13) is amended to read as
8 follows:

9 13. **[No]** a. The right of any person to a prize drawn shall not be
10 assignable, except [that] as permitted by this section.

11 b. The payment of any prize drawn may be paid to the estate of a
12 deceased prize winner[, and except that any].

13 c. Any person pursuant to an appropriate judicial order may be
14 paid the prize to which the winner is entitled.

15 d. A person having the right to a prize paid through periodic
16 payments may, at any time, voluntarily assign the right to receive the
17 payments, in whole or in part, to a person or entity in the manner
18 provided by this subsection. A person wishing to make a voluntary
19 assignment of periodic payments shall apply to the Superior Court for
20 issuance of an order approving the assignment. The court shall issue
21 an order approving the voluntary assignment and directing that
22 payments be made to the assignee when the following conditions are
23 met:

24 (1) the assignor shall submit to the court a copy of the written
25 contract of assignment which shall expressly provide that it is subject
26 to the laws of this State and which shall be executed by the assignor;

27 (2) the assignor shall provide the court with a sworn affidavit,
28 along with copies of the supporting documents specified in
29 subparagraphs (e) and (f) of this paragraph, attesting that:

30 (a) the assignor is of sound mind, in full command of the assignor's
31 mental faculties, and not acting under duress;

32 (b) the assignor has been advised regarding the assignment by the
33 assignor's own attorney and has had the opportunity to receive
34 independent financial and tax advice concerning the effects of the
35 assignment;

36 (c) the assignor understands that the assignor will not receive the
37 prize payments, or portions thereof, for the years assigned;

38 (d) the assignor understands and agrees that neither the State nor
39 the State Lottery, nor any officer or employee thereof, shall have any
40 further liability or responsibility to make the assigned payments to the
41 assignor;

42 (e) the assignee has provided the assignor with a one-page written
43 disclosure statement which indicates, in bold type which is at least 14

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

- 1 points in size, the following:
- 2 (i) the payments being assigned, including amounts and payment
3 dates;
- 4 (ii) the amount to be paid by the assignee to the assignor as
5 consideration for the assignment of the payments;
- 6 (iii) the rate of discount to present value, assuming daily
7 compounding and funding on the contract date; and
- 8 (iv) the amount of any origination or closing fees to be paid by the
9 assignor; and
- 10 (f) the assignor has been advised by the assignee in writing, at the
11 time the assignor signed the assignment contract, that the assignor has
12 the right to cancel the contract without any further obligation within
13 three business days following the date on which the contract was
14 signed.
- 15 e. A voluntary assignment pursuant to subsection d. of this section
16 shall not include or cover payments or portions of payments that are
17 subject to offset pursuant to P.L.1991, c.384 (C.5:9-13.1 et seq.), or
18 any other law, unless appropriate provision is made in the order to
19 satisfy the obligations giving rise to the offset.
- 20 f. The State Lottery may impose a reasonable fee to defray any
21 direct or indirect administrative expenses associated with assignments
22 made pursuant to subsection d. of this section, including the cost to
23 the State or the State Lottery of any processing fee that may be
24 imposed by a private annuity provider.
- 25 g. The court shall cease to approve assignments pursuant to
26 subsection d. of this section if:
- 27 (1) the United States Internal Revenue Service issues a technical
28 rule letter, revenue ruling, or other public ruling in which it is
29 determined that because of the right of assignment provided by
30 subsection d. of this section, prizewinners who do not exercise the
31 right to assign prize payments would be subject to an immediate
32 income tax liability for the value of the entire prize rather than annual
33 income tax liability for each installment when received; or
- 34 (2) a court of competent jurisdiction issues a published decision
35 holding that because of the right of assignment provided by subsection
36 d. of this section, prizewinners who do not exercise the right to assign
37 prize payments would be subject to an immediate income tax liability
38 for the value of the entire prize rather than annual income tax liability
39 for each installment when received.
- 40 h. Upon receipt, the director shall immediately file a copy of a
41 letter or ruling of the United States Internal Revenue Service or a
42 published decision of a court of competent jurisdiction, described in
43 subsection g. of this section, with the Secretary of State. No
44 assignment shall be approved pursuant to subsection d. of this section
45 after the date of such filing.
- 46 i. The director shall be discharged of all further liability upon

1 payment of a prize pursuant to this section.
2 (cf: P.L.1970, c.13, s.13)

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4 2. This act shall take effect immediately.

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STATEMENT

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9 This bill would amend existing law to permit any person who has
10 the right to receive a State Lottery prize through periodic payments to
11 voluntarily assign that right, at any time, to another person or entity.
12 A person who wishes to make a voluntary assignment of periodic
13 payments would apply to the Superior Court for an order approving
14 the assignment. The court would issue an order upon the assignor's
15 submission of a copy of the written contract of assignment and a
16 sworn affidavit, accompanied by supporting documents, attesting that
17 the assignor: is mentally competent and not acting under duress; has
18 consulted an attorney regarding the assignment and has had the
19 opportunity to receive independent financial and tax advice;
20 understands that the assignor will not receive the prize payments, or
21 portions thereof, for the years assigned; recognizes that neither the
22 State nor the State Lottery will have any further responsibility to make
23 assigned payments to the assignor; has received from the assignee a
24 one-page written disclosure statement setting forth the terms of the
25 assignment; and has been advised by the assignee, in writing at the
26 time the contract of assignment was signed, that the assignor has the
27 right to cancel the contract within three business days of the signing.

28 A voluntary assignment would not include payments, or portions
29 thereof, that are subject to offset for an arrearage in court-ordered
30 child support or overpayments for Aid to Families with Dependent
31 Children, food stamp benefits or low-income home energy assistance
32 benefits, or any other offset required by law, unless provision is made
33 in the court order to meet the obligation. The bill allows the State
34 Lottery to impose a reasonable fee to defray administrative costs
35 associated with the assignment, including the cost of any processing
36 fee imposed by a private annuity provider.

37 The bill provides that voluntary assignments would cease to be
38 approved if the Internal Revenue Service issues a ruling, or a court of
39 competent jurisdiction issues a published decision, to the effect that
40 because voluntary assignments are allowed, prize-winners who do not
41 make an assignment will, nevertheless, be deemed to have a tax
42 liability for the full value of the prize during one tax year rather than
43 an annual tax liability for each installment in the year in which it is
44 received.

45 The purpose of the bill is to enable a person who is receiving a
46 lottery prize through annual installments over a period of years to

1 instead gain access to a lump sum which may be needed for such
2 purposes as extraordinary medical expenses, the purchase of a home,
3 or investment in a business. Senior citizens, in particular, may prefer
4 to receive a lump sum payment instead of annual installments. In
5 addition, depending upon an individual's other income, assets,
6 investment plans, and obligations, it may be more advantageous from
7 a financial planning perspective to exchange annual payments for a
8 single large payment. Similar legislation has been enacted by eleven
9 other states and the District of Columbia.