

CHAPTER 189

**GOVERNMENT - STATE**

SENATE BILL 95-133

BY SENATORS Thiebaut, Casey, Matsunaka, and L. Powers;  
also REPRESENTATIVES Lawrence, George, Romero, Chavez, DeGette, Epps, and Schwarz.

**AN ACT**

**CONCERNING ASSIGNMENT OF LOTTERY PRIZES.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1. Legislative declaration.** In enacting this amendment to the Colorado Revised Statutes concerning the state lottery division, it the intent of the general assembly to provide lottery winners the maximum number of choices and flexibility to use and enjoy their prize as they see fit, to maximize the value of prizes to lottery winners, to foster competition among those who would bid for and lend against lottery prize payments, and to preserve the integrity of the Colorado lottery and protect the state of Colorado and its political subdivisions and employees charged with administration of the lottery from liability and litigation.

**SECTION 2.** 24-35-212 (1) and (6), Colorado Revised Statutes, 1988 Repl. Vol., as amended, are amended, and the said 24-35-212 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

**24-35-212. Prizes.** (1) The right of any person to a prize is not assignable; except that payment of any prize may be paid to:

(a) The estate of a deceased prizewinner; or

(b) ~~to a~~ ANY person pursuant to A VOLUNTARY ASSIGNMENT OF THE RIGHT TO RECEIVE FUTURE ANNUAL PRIZE PAYMENTS, IN WHOLE OR IN PART, IF THE ASSIGNMENT IS MADE PURSUANT TO an appropriate judicial order OF THE DISTRICT COURT LOCATED IN THE CITY AND COUNTY OF DENVER OR THE JUDICIAL DISTRICT WHERE THE ASSIGNOR RESIDES OR WHERE THE COMMISSION'S HEADQUARTERS ARE LOCATED.

*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

(1.5) (a) A COPY OF THE PETITION FOR AN ORDER DESCRIBED IN PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION AND OF ALL NOTICES OF ANY HEARING IN THE MATTER SHALL BE SERVED ON THE COMMISSION NO LATER THAN TEN DAYS PRIOR TO ANY HEARING OR ENTRY OF ANY ORDER.

(b) THE COMMISSION MAY INTERVENE AS OF RIGHT IN ANY SUCH PROCEEDING SOLELY TO PROTECT THE INTERESTS OF THE COMMISSION BUT SHALL NOT BE DEEMED AN INDISPENSABLE OR NECESSARY PARTY.

(c) THE COURT RECEIVING THE PETITION IS AUTHORIZED TO ISSUE AN ORDER APPROVING THE ASSIGNMENT AND DIRECTING THE COMMISSION TO PAY TO THE ASSIGNEE ALL FUTURE PRIZE PAYMENTS SO ASSIGNED UPON FINDING THAT ALL OF THE FOLLOWING CONDITIONS HAVE BEEN MET:

(I) THE ASSIGNMENT HAS BEEN MEMORIALIZED IN WRITING AND EXECUTED BY THE ASSIGNOR AND IS SUBJECT TO COLORADO LAW;

(II) THE ASSIGNOR PROVIDES A SWORN DECLARATION TO THE COURT ATTESTING TO THE FACTS THAT THE ASSIGNOR HAS HAD THE OPPORTUNITY TO BE REPRESENTED BY INDEPENDENT LEGAL COUNSEL IN CONNECTION WITH THE ASSIGNMENT, HAS RECEIVED INDEPENDENT FINANCIAL AND TAX ADVICE CONCERNING THE EFFECTS OF THE ASSIGNMENT, AND IS OF SOUND MIND AND NOT ACTING UNDER DURESS; AND

(III) THE PROPOSED ASSIGNMENT DOES NOT AND WILL NOT INCLUDE OR COVER PAYMENTS OR PORTIONS OF PAYMENTS SUBJECT TO OFFSETS PURSUANT TO SUBSECTION (5) OF THIS SECTION, UNLESS APPROPRIATE PROVISION IS MADE IN THE ORDER TO SATISFY THE OBLIGATIONS GIVING RISE TO THE OFFSET.

(d) WITHIN TEN DAYS OF RECEIPT OF A CERTIFIED COPY OF A COURT ORDER GRANTED PURSUANT TO THIS SUBSECTION (1.5), THE COMMISSION SHALL ACKNOWLEDGE IN WRITING TO BOTH THE ASSIGNOR AND THE ASSIGNEE ITS AGREEMENT TO MAKE THE PAYMENTS IN ACCORDANCE WITH THE PROVISIONS OF THE ORDER. THE COMMISSION SHALL MAKE SUCH PAYMENTS PURSUANT TO SAID ORDER.

(e) THE COMMISSION SHALL NOT ADOPT RULES AND REGULATIONS FOR THE IMPLEMENTATION OF THIS SUBSECTION (1.5) THAT ARE MORE RESTRICTIVE THAN THE PROVISIONS OF THIS SUBSECTION (1.5), THAT IMPOSE REQUIREMENTS IN ADDITION TO THOSE SET FORTH IN THIS SUBSECTION (1.5), OR THAT ARE INCONSISTENT WITH THE EXPRESSED INTENT OF THE GENERAL ASSEMBLY.

(f) THE COMMISSION IS AUTHORIZED TO ESTABLISH A REASONABLE FEE TO DEFRAY ANY ADMINISTRATIVE EXPENSES OF THE COMMISSION ASSOCIATED WITH ASSIGNMENTS MADE PURSUANT TO THIS SECTION. THE FEE AMOUNTS SHALL REFLECT THE DIRECT AND INDIRECT COSTS ASSOCIATED WITH PROCESSING THE ASSIGNMENTS.

(1.6) NO VOLUNTARY ASSIGNMENT UNDER THIS SECTION SHALL BE EFFECTIVE UNLESS AND UNTIL THE NATIONAL OFFICE OF THE FEDERAL INTERNAL REVENUE SERVICE ADVISES THE CHAIRMAN OF THE COLORADO LOTTERY COMMISSION THAT THE VOLUNTARY ASSIGNMENT OF PRIZES PURSUANT TO APPROPRIATE JUDICIAL ORDER WILL NOT AFFECT THE FEDERAL INCOME TAX TREATMENT OF PRIZEWINNERS WHO DO NOT ASSIGN THEIR PRIZES.

(6) Notwithstanding any provision of ~~subsection (1)~~ of this section to the contrary, all or any part of a prize won by a person may be pledged as collateral for a loan; however, the pledging of all or any part of such prize creates no liability to the state of Colorado.

**SECTION 3. No appropriation.** The general assembly has determined that this act can be implemented within existing appropriations, and therefore no separate appropriation of state moneys is necessary to carry out the purposes of this act.

**SECTION 4. Safety clause.** The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 24, 1995