Assignability of State Lottery Prizes

A Cash Option for Lottery Winners that Costs the State Nothing

May 13, 2008: NEW Most large Georgia lottery prizes are paid in annual installments over twenty or more years. Georgia's HB 515 will afford Georgia lottery winners a new cash option, giving winners the ability to sell their right to future prize payments. Modeled on statutes in more than twenty other lottery states, this new law requires that every such transaction be presented to and approved by a court. Now, Georgia winners will have the flexibility to decide for themselves whether they should wait for their annual payments or sell their rights for cash, upfront and in a lump sum.

By affording prizewinners the simple right to sell their payments, the Lottery makes its prizes significantly more "valuable" to winners without spending one cent of Lottery money.

Many winners want to raise cash to pay extraordinary medical expenses, start or expand small businesses, pay off debts, or buy homes. Some winners still awaiting prize payments are senior citizens who may not have twenty years to enjoy the benefits of a prize. Others simply want to take control of their own winnings, investing (or spending) to suit their own needs and life plans.

Most lottery states already have amended their lottery laws so as to establish procedures that allow past prizewinners to sell or pledge their right to collect lottery prizes over time in exchange for a lump-sum "upfront" cash payment. Georgia has yet to do so. If HB 515 is enacted, Georgia winners will finally be allowed to legally and voluntarily sell or pledge their right to future payments in order to raise cash at favorable rates like so many other lottery winners around the country.

The new legislation is modeled on laws already in effect in Arizona, California, Colorado, Connecticut, Florida, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Montana, New Hampshire, New Jersey, New York, Ohio, Oregon, Pennsylvania, Texas, Washington, Washington, D.C., Vermont, West Virginia, Washington, and Wisconsin.

The current system is not meeting winners' needs. This new legislation would amend the lottery law so as to make it clear that a voluntary pledge or assignment of lottery prize payments, pursuant to court order, is allowed, but only subject to specified consumer protections and safeguards.

Here is how the procedure has been working in other states: If a winner wants to sell future prize payments, the winner must have their own independent lawyer representing them in the transaction. If the winner can agree on terms with a bank, loan company or investor, the parties must give notice to the Lottery and petition a court to approve the transaction. If the court approves the sale, the Lottery will receive an order directing it to make future payments (or portions thereof) to the purchaser (or lender) rather than the prizewinner. In turn, the prizewinner gets upfront "lump-sum" cash payment.

The Lottery's payment obligation is unchanged -- paying the same amounts on the same dates -- the only difference is the name and address on the checks.

By opening up the assignment process and clarifying that it is available and "bankable," this proposed legislation will encourage competition among lenders and investors. Vigorous competition for this business will ensure the best possible deals for the prizewinners. By requiring a court finding that the prizewinner has received independent legal advice and counsel concerning a proposed assignment transaction, the prizewinner's interests will be protected.

HB 515 will also protect the Lottery itself. Since a formal court order will be required in every transaction, the Lottery will always know that it is paying the correct party. This protects the Lottery from ever having to face competing and inconsistent claims to the same payments.

Although court review and approval will be required for every transaction, the Lottery itself will not have to get involved in the court process. The Lottery will receive notice of petitions for court orders, but there is no requirement that the Lottery be made a party to such actions. The Lottery may choose to intervene in such actions to protect its own interest, but in the vast majority of cases, the Lottery's involvement will be unnecessary.

It’s a strange form of paternalism in which a State permits its citizens to sell all that they own to buy lottery tickets; but then asserts a caretaker’s interest in controlling how and when the winnings are spent.

The simple fact is that the prizes belong to the winners. And the winners ought to be free to save, spend, or invest in accordance with their own life preferences. With enactment of HB 515, winners can take back control of their lottery prize.