House Legislative Analysis Section
Romney Building, 10th Floor
Lansing, Michigan 48909
Phone: 517/373-6466

LOTTERY PRIZE ASSIGNMENTS

Senate Bill 596 as passed by the Senate
Sponsor: Sen. Robert Geake

Senate Committee: Gaming and Casino Oversight
House Committee: Regulatory Affairs

First Analysis (12-2-97)

THE APPARENT PROBLEM:

Large lottery prizes are paid to winners in installments over a 20-year period. As of July of this year, Michigan Lotto players have been able to choose at the time a Lotto ticket is purchased between a lump sum payment or yearly installments. For some, particularly senior citizens, people facing large medical bills, or those in need of large sums of money to purchase a business, the installment plan may not be suitable to their needs. In some states, lottery winners are permitted to sell future prize installments to a third party such as a bank or loan company for a cash settlement. Currently, though, under the Lottery Act, the assignment of lottery installment winnings to a third party are permitted only in the case of the death of a winner or under "an appropriate judicial order" (which is not defined in the act). According to the Bureau of State Lottery, some Michigan lottery winners have filed suit in recent years to obtain court orders that allow them to sell future prize installments to private companies in exchange for a lump sum payment. In most cases, the bureau reports that the circuit courts have taken a broad interpretation of "an appropriate judicial order" and have approved the requests.

However, some feel that the courts have been inconsistent in granting such judicial orders. Legislation has been introduced to amend the lottery act so that lottery winners could sell future prize installments to a private company or third person as long as certain basic conditions were met and a judicial order were issued.

THE CONTENT OF THE BILL:

The bill would amend the McCauley-Traxler-Law-Bowman-McNeely Lottery Act to revise provisions concerning the assignment of the prize of a state lottery winner, by specifying the conditions under which a judicial order voluntarily assigning a prize could be issued.

Currently, under the act, a state lottery prize is not assignable except: 1) to family members or to the estate of a deceased prizewinner; 2) to the state to pay for any liability to the state a prizewinner may have, including support arrearages; or 3) to a person pursuant to an "appropriate judicial order" (which is not defined). The bill generally would retain these provisions but further specifies that payment of any prize could be made to any person pursuant to a voluntary assignment of the right to receive future prize payment, in whole or in part, if the assignment were made to a person or entity designated in an appropriate judicial order of a court of competent jurisdiction located in either the county in which the assignor resided or the county in which the lottery bureau was located. An order approving the assignment and directing the lottery commissioner to pay the assignee all or a part of future prize payments would be properly issued if the court found that all of the following circumstances existed:

* The assignment was in writing, executed by the assignor in accordance with state laws.

* The assignor provided a sworn affidavit to the court attesting that he or she was of sound mind, was not acting under duress, had been advised regarding the assignment by his or her legal counsel, and understood and agreed that the state and the commissioner would have no further liability or responsibility to make prize payments to the assignor.

* The proposed assignment did not include or cover payments or portions of payments alleged to be subject to assignment to the state, unless an appropriate provision was made to satisfy any obligation to the state.

The bill would allow the commissioner to establish a reasonable fee to defray the cost of any administrative expenses associated with assignments made under the act, including the cost of a processing fee that could be imposed by a private annuity provider. The amount of the fee would have to reflect the direct and indirect costs associated with processing the assignments.

Further, the bill would specify that if at any time the federal Internal Revenue Service or a court of competent jurisdiction issued a determination letter, revenue ruling, other public ruling of the IRS, or published decision to any state lottery or lottery prizewinner declaring that the voluntary assignment of prizes would affect the federal income tax treatment of prizewinners who did not assign their prizes, the commissioner would have to immediately file a copy of that IRS notification with the secretary of state and the office of the state court administrator. A court could not issue a voluntary assignment order after the date the IRS notification was filed.

MCL 432.25

FISCAL IMPLICATIONS:

According to the Senate Fiscal Agency, there would be some administrative costs associated with the assignments made under the bill. The bill would, however, allow a processing fee to be established to defray the costs of associated administrative expenses. The bill would require that the fee reflect the costs of administering the program. Therefore, the fiscal impact would be indeterminate at this time. (10-16-97)

ARGUMENTS:

For:

The bill in essence would help standardize how the courts deal with judicial orders that allow lottery prize winners to sell future prize installments to third parties such as banks and loan companies. Only recently have Michigan Lotto players had the option of choosing between yearly installments for 20 years or a lump sum distribution. Previous winners, or new winners who did not choose the lump sum option but have since changed their minds, are locked into the installment plan unless they can sell their future installments to a third party. There are many reasons why a winner may desire to have a lump sum settlement in lieu of remaining prize installments. Perhaps a person's life situation has changed, and money is now needed to pay for medical care, or to purchase a business. Under the bill, as long as certain conditions were met, a court would have to issue a judicial order allowing the sale of the prize installments. This would give past and future prize winners greater flexibility to choose what is right for them, and yet would provide some protection for consumers by requiring court approval for the transaction.

Response:

Some feel that the bill hardly protects consumers at all. Reportedly, several other states that have similar legislation are experiencing problems with companies hounding and badgering lottery winners to sell off future prize installments, sometimes at less than the current cash value. Many consumers simply are not savvy enough to understand the financial issues involved and so may undersell their winnings.

For these reasons, some feel that companies buying prize installments should be certified by the state. In that way, a certificate to operate in Michigan could be pulled if a company engaged in unfair or unethical business practices. At a minimum, some believe that the bill should require a clear disclosure that the sale price would be the current cash value (or lower) as opposed to the total value of the remaining annual installments.

For:

Each time a court allows a lottery winner to sell his or her future prize installments via a judicial order, the lottery bureau must cash in annuities purchased for the prize. The bill would give the bureau the ability to recoup the administrative costs associated with cashing in the annuities and reassigning the prize installments.

POSITIONS:

The Bureau of State Lottery supports the bill. (12-1-97)

Analyst: S. Stutzky

■This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.