

Assignability of State Lottery Prizes in Whole or in Part

A **Flexible** Cash Option for Lottery Winners that Costs the State Nothing

Most large Ohio lottery prizes are paid in annual installments over twenty or more years. In 2002, Governor Taft signed SB 226 into law affording past Ohio lottery winners with a new cash option, giving winners the ability to sell their right to **all** of their future prize payments. The 2002 law was a step in the right direction for Ohio lottery winners, but it still fell short of meeting winners' individual financial needs.

In order to meet the needs of all Ohio lottery winners, the current statute has been amended. Effective March 31, 2005, Ohio lottery winners will now have the option of selling all or a **portion** of their future payments. Modeled on statutes in more than twenty other lottery states, the legislation requires that every such transaction be presented to and approved by a court.

On March 31, 2005, Ohio winners will have the flexibility to decide for themselves whether they should wait for their annual payments or sell all **or only a portion** of 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 all or a portion of their lottery prizes over time in exchange for a lump-sum "upfront" cash payment. Now Ohio winners, thanks to the amendment of its current statute, can sell or pledge their right to all or a portion of their 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, Illinois, Iowa, Maine, Massachusetts, Michigan, Montana, New Hampshire, New Jersey, New York, Oregon, Pennsylvania, Texas, Washington, Washington, D.C., Vermont, Virginia, West Virginia, Washington, and Wisconsin.

The current system was not meeting winners' needs. This amended statute makes it clear that a voluntary pledge or assignment of all or a **portion** of a winner's 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, including Ohio: 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 legislation will encourage competition among lenders and investors. Vigorous competition for this business will ensure the best possible deals for the prizewinners while allowing prizewinners to retain a portion of their lottery prize payments. 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.

The legislation 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.

The current system was unfair. New winners were afforded a *flexible* cash option while that same right was denied past winners. Ohio winners who shared multi-state prizes with winners in other states were denied the right to sell a *portion* of their prizes, while winners of the same multi-state prize, awarded in the same drawing in a different state, are free to cash-out a portion of their lottery prize. Now that has changed with the amendment of the existing statute.

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 the amendment of the current statute, past winners can take back control of their lottery winnings.