

**Amendment To Massachusetts State Lottery Statute Authorizing Voluntary  
Assignment Of Massachusetts State Lottery Prizes, in Whole or in Part, Pursuant  
To Court Order**

(cite as Massachusetts General Laws (M.G.L.) Chapter 10, Section 28, as amended by Section 23 of  
Chapter 149 of the Acts of 2004)

SECTION 23. Chapter 10 of the General Laws is hereby amended by striking out section 28, as appearing in the 2002 Official Edition, and inserting in place thereof the following section:—

Section 28. The right of any person to a prize drawn is not assignable except under the following limited circumstances:

(1) Payment of any prize drawn may be paid to the estate of a deceased prize winner or to the IV-D agency under chapter 119A.

(2) Payment of any prize drawn may be made to any person under an appropriate judicial order.

(3) The commission may, by regulations adopted under section 24, permit assignment of prizes for purposes of paying estate and inheritance taxes, or to a trust the beneficiaries of which are the prize winner, his mother, father, children, grandchildren, brothers, sisters or spouse.

(4) Payment of any prize drawn may be made to a person under a voluntary assignment of the right to receive future prize payments, in whole or in part, if the assignment is made to a person or entity named as the assignee in an appropriate judicial order of a court of competent jurisdiction, which shall be the superior court sitting within and for the county in which the commission is situated or in which the assignor resides. Under this paragraph, a court may issue an order approving a voluntary assignment and directing the commission to make prize payments in whole or in part to the designated assignee, if the court finds that all of the following conditions have been met:

(A) The assignment is in writing, executed by the assignor and, by its terms, subject to the laws of the commonwealth;

(B) The court finds that the assignor:

(i) is of sound mind and not acting under duress,

(ii) has been advised regarding the assignment by his independent legal counsel and independent certified financial planner. For purposes of this clause, "independent"

shall mean unrelated to, unassociated with, and not compensated by the assignee or the assignee's affiliates;

(iii) irrevocably agrees that he is subject to state income tax with respect to a gain or income which the assignor will recognize in connection with the transfer or assignment; and

(iv) understands and agrees that with regard to the assigned payments, the commonwealth, the commission, and the director shall have no further liability or responsibility to make said payments to the assignor.

(v) In making the findings under clauses (i), (ii), (iii), and (iv), absent a showing of special circumstances or hardship, the court shall require the personal appearance and in-court affirmation of the assignor. For purposes of this section, "special circumstances or hardship" shall mean the assignor resides outside of the commonwealth or a health or other condition makes a court appearance unduly costly, dangerous, or burdensome, in which case the court may, in its discretion, take evidence by way of telephonic testimony, video deposition, or written affidavit.

(C) At the time he executed the assignment contract, the assignor was provided with a written disclosure statement setting forth, in bold type of not less than 14 points, the payments being assigned, by amounts and payment dates; the purchase price being paid; the rate of discount to present value, assuming daily compounding and funding on the contract date; and the amount, if any, of closing, administrative or other fees or charges that will be charged to him or her; but, the disclosure statement shall be in a form approved by the commission.

(D) The assignor was advised in writing, at the time he signed the assignment contract, that he had the right to cancel the contract, without any further obligation, within 10 calendar days following the date the contract was executed, upon return of any payment received in consideration for the contract.

(E) The assignment contract shall provide that delinquent child support obligations of the assignor and debts owed to a state agency by the assignor, as of the date of the court order, shall be paid in full, at closing.

(F) If the court determines at the time of the hearing set forth in subparagraph (B) that the assignment is not in compliance then the court shall have discretion to void the assignment without recourse or obligation to the proposed assignor or assignee.

(5) In the case of a voluntary assignment for consideration made under a judicial order pursuant to paragraph (4), the assignee shall withhold 5.3 per cent of the purchase price and pay that withheld amount to the commonwealth as state income tax withholding to credit the account of the assignor, within 10 days of closing the assignment transaction.

(6) In the case of a voluntary assignment for consideration made under paragraph (4), delinquent child support obligations of the assignor and debts owed to a state agency by

the assignor that are not paid in full, at closing of the assignment contract shall be offset by the commission first against remaining payments or portions thereof due the prize winner and then against payments due the assignee.

(7) The commonwealth, the commission, the director, and the agents and employees of the commission shall be discharged of all further liability upon payment of a prize in full to the parties identified in a court order entered under paragraph (4), less any amount offset under paragraph (6).

(8) Soliciting to buy or offering to sell rights to lottery prize winnings, either by assignment or through pledge as collateral for a loan, shall not be deemed selling or offering for sale lottery tickets or shares under this chapter.

(9) The director may establish a reasonable fee, payable by the assignee, to defray administrative expenses associated with assignments made under this section, including the cost to the commonwealth of a processing fee that may be imposed by a private annuity provider. The fee amount shall reflect the direct and indirect costs to the commonwealth associated with processing the assignments and shall be no greater than \$1,000 per transaction.

(10) Written notice of a proposed assignment under paragraph (4) and a court hearing concerning the proposed assignment shall be provided to the commission at least 10 days before a court hearing. The commission is not required to appear in or be named as a party to the action seeking judicial confirmation of an assignment under this section, but may intervene as of right in the proceeding. A certified copy of a court order approving a voluntary assignment shall be provided to the commission not later than 14 days before the date on which the payment is to be made.

(11) Nothing in this chapter shall exempt an assignee or person acting as broker, agent, or intermediary for an assignee, from the licensure requirement and other rules and restrictions imposed under section 96 of chapter 140.

(12) A court order obtained under paragraph (4), together with any other order issued in connection with any 1 prize drawn, shall not require the commission to divide payments among more than 3 different persons or entities.

(13) No business entity may seek or obtain an order approving a voluntary assignment of lottery prize payments under this section unless and until the business entity has first filed a written disclosure and registration statement with the state lottery and paid the registration fee specified in clause (iv) of this paragraph. The disclosure and registration statement shall list and disclose, under penalty of perjury under the laws of the commonwealth, the following:

- (i) the registrant's name, mailing address, and telephone number;

(ii) the name and address of the registrant's agent for service of process in the commonwealth;

(iii) claims by a lottery winner, a state lottery, a consumer protection agency or a state, federal, or local prosecutor or enforcement agency against the registrant or its affiliates in a state or federal court within the past 5 years, and the status and disposition of the claims;

(iv) the registrant's privacy, "do-not-call" and non-harassment policies. The registration and disclosure shall be accompanied by a non-refundable fee in the amount of \$2,500 payable to the commission by the registrant. All registrations and disclosures shall be maintained on file with the commission and shall be made available to a member of the public upon request.

(14) An assignment in violation of this section shall be invalid. The commonwealth, the commission, the director, and the agents and employees of the commission shall not be liable to make payments pursuant to an invalid assignment.

(15) This section shall prevail over section 9-405 of chapter 106.

SECTION 403. Notwithstanding any general or special law to the contrary, any revenue collected pursuant to the assignment of lottery prizes shall be deposited into the stabilization fund.

SECTION 404. Notwithstanding section 28 of chapter 10 of the General Laws, the right to assign prize payments under subsection (4) of said section 28 of said chapter 10, shall be suspended upon: (i) the issuance by the United States Internal Revenue Service, hereinafter referred to as the "Service", of a revenue ruling or other public ruling of the Service, which rules that, based upon the right of assignment provided in said subsection (4) of said section 28 of said chapter 10, Massachusetts lottery prizewinners who do not assign any prize payments would be subject to an immediate income tax liability for the value of the entire prize rather than annual income tax liability for each installment when paid, or (ii) the issuance by a court of competent jurisdiction of a published decision holding that, based upon the right of assignment provided in subsection (4) of said section 28 of said chapter 10, a lottery prizewinner who does not assign any prize payments under the subsection would be subject to an immediate income tax liability for the value of the entire prize rather than annual income tax liability for each installment when paid. Upon receipt of a ruling or a proposed ruling from the Service or a published decision of a court of competent jurisdiction, as described in this section, the director of the state lottery shall immediately file a copy of that ruling or published decision with the state secretary, and the clerks of the house of representatives and of the senate. Immediately upon the filing by the director of a letter, ruling, or published decision with the state secretary, a prizewinner shall be ineligible to execute assignment of a prize under subsection (4) of said section 28 of said chapter 10.