

VIRGINIA ACTS OF ASSEMBLY -- 1998 RECONVENED SESSION

CHAPTER 853

An Act to amend the Code of Virginia by adding in Title 58.1 a section numbered 58.1-4020.1, relating to voluntary assignment of lottery prizes.

[H 837]

Approved April 22, 1998

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 58.1 a section numbered 58.1-4020.1 as follows:

§ 58.1-4020.1. Voluntary assignment of lottery prizes or pledge as collateral for a loan; requirements for the assignees and lenders.

A. Lottery prizes, payable in installments over a period of time, may be voluntarily assigned or pledged as collateral for a loan, in whole or in part, by the person entitled to such installments, by written contract affirming that the requirements of this section have been met and endorsed by written order of a court of competent jurisdiction after a hearing. The order shall specify the name, address and social security number or tax identification number of the assignee or lender and shall specifically describe the payments to be assigned or pledged as collateral by date and gross pre-tax amount.

The rate charged for any such assignment or loan shall not exceed twelve percent.

The contract shall:

1. Be signed by the assignor and the assignee or the lender and the borrower, and the assignor or borrower shall affirm that the assignment or loan has been voluntarily executed.

2. Include or be accompanied by a sworn statement attesting that the assignor or borrower (i) is of sound mind and not acting under duress; (ii) has retained independent legal counsel and independent financial counsel concerning the implications of the assignment or loan, including the tax consequences, and who shall not be referred by or associated with the assignee or lender; (iii) understands that he is relinquishing or limiting his rights to receive the lottery proceeds; and (iv) has received from the Virginia Lottery, in response to a written request therefor, confirmation of the assignee's or lender's registration with the Virginia Lottery in accordance with subsection E of this section.

3. Include a disclosure statement setting forth (i) the amounts assigned or loaned; (ii) the dates such amounts are payable; (iii) the purchase price paid for the assignment or loan; (iv) the rate of discount to present value, assuming daily compounding and funding on the contract date; (v) the amount of any fees associated with the assignment or loan and by whom such fees are payable; and (vi) the tax identification number of the assignee.

4. Expressly state that the assignor or borrower has three business days after signing the contract to cancel the assignment or loan.

5. Expressly state that the assignee or lender is eligible to purchase, share or receive prizes of the Virginia Lottery pursuant to §§ 58.1-4015, 58.1-4016 and 58.1-4019 A, and that the Lottery has complied with § 58.1-4019 B in that the original prizewinner is (or if deceased, was) a natural person if and to the extent that the prize was awarded on or after the effective date of § 58.1-4019 B.

6. Expressly state that no amounts assigned or loaned are subject to setoff pursuant of Article 21 (§ 58.1-520 et seq.) of Chapter 3 of this title.

B. The Commonwealth, the Virginia Lottery and any employee or representative of either shall be indemnified and held harmless upon payment of amounts due as set forth in the court order.

C. The Lottery may establish a reasonable fee to process the assignments provided for in this section and to receive, review and file the registration required by subsection E and confirm compliance with the registration requirements. The fee shall be reflective of the direct and indirect costs of processing the assignments or registrations.

D. Notwithstanding the provisions of this section, the Commonwealth and the Virginia Lottery shall not accept any assignment if either of the following has occurred:

1. Federal law provides that the right to assign lottery proceeds is deemed receipt of income in the year the lottery prize is won for all installment lottery prize winners. "Federal law" includes statutory law, rulings of courts of competent jurisdiction, and published rulings by the Internal Revenue Service.

2. State law provides that the right to assign lottery proceeds is deemed receipt of income in the year the lottery prize is won for all installment lottery prize winners. "State law" includes statutory law, rulings of courts of competent jurisdiction, and published rulings by the Department of Taxation.

E. An assignee, prospective assignee, lender or prospective lender shall not make any representation in any written or oral communications with a lottery winner which implies that the assignee, prospective assignee, lender or prospective lender is associated with or an agent of the Virginia Lottery. Every prospective assignee or prospective lender shall register with the Virginia Lottery, prior to contracting

for any assignment or loan pursuant to this section. The registration shall include (i) the assignee's or lender's standard information packet or materials given or sent to prospective assignees or borrowers, (ii) the assignee's or lender's standard form of agreement, (iii) the assignee's or lender's federal tax identification number, and (iv) where applicable, the assignee's or lender's most recent public financial statement.

2. That the provisions of this act shall expire on July 1, 1999.

3. That the Lottery Department shall submit a report and recommendations to the 1999 Session of the General Assembly regarding borrowing and assignment activity by lottery winners.

4. That the provisions of this act shall not become effective unless reenacted by the 1999 Session of the General Assembly.