

House Bill 229 (AS PASSED HOUSE AND SENATE)

By: Representatives Harbin of the 118th, Hembree of the 67th, and Smith of the 113th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 27 of Title 50 of the Official Code of Georgia Annotated,
2 relating to general provisions relative to the "Lottery for Education Act," so as to define
3 certain terms; to provide that under certain conditions lottery winnings may be assigned; to
4 provide for a court order; to provide for findings of fact; to provide for notice and
5 acknowledgment; to provide for liens and bankruptcy; to provide for an exemption from
6 liability; to provide for a fee; to provide for certain restrictions and limitations; to impose
7 certain limitations on book allowances and mandatory fee payments under certain
8 circumstances; to provide for related matters; to provide an effective date; to repeal
9 conflicting laws; and for other purposes.

10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

11 **SECTION 1.**

12 Article 1 of Chapter 27 of Title 50 of the Official Code of Georgia Annotated, relating to
13 general provisions relative to the "Lottery for Education Act," is amended by revising Code
14 Section 50-27-3, relating to definitions, as follows:

15 "50-27-3.

16 As used in this chapter, the term:

17 (1) 'Administrative expenses' means operating expenses, excluding amounts set aside for
18 prizes, regardless of whether such prizes are claimed and excluding amounts held as a
19 fidelity fund pursuant to Code Section 50-27-19.

20 (2) 'Assignee' means any person or third party other than the winner to whom any portion
21 of a prize or any right of any person to a prize awarded payable by the corporation in
22 installment payments may be transferred or assigned pursuant to an appropriate judicial
23 order as provided in Code Section 50-27-24.1.

24 (3) 'Assignment' means the transfer of any portion of a prize or any right of any person
25 to a prize awarded payable by the corporation in installment payments to any person or

1 third party pursuant to an appropriate judicial order as provided in Code Section
 2 50-27-24.1.

3 (4) 'Assignor' means any person receiving installment payments seeking to assign or
 4 transfer any portion of a prize or any right of any person to a prize awarded to an assignee
 5 or any person or third party pursuant to an appropriate judicial order as provided in Code
 6 Section 50-27-24.1.

7 ~~(2)~~(5) 'Board' means the board of directors of the Georgia Lottery Corporation.

8 ~~(3)~~(6) 'Capital outlay projects' means the acquisition, construction, installation,
 9 modification, renovation, repair, extension, renewal, replacement, or rehabilitation of
 10 land, interests in land, buildings, structures, facilities, or other improvements and the
 11 acquisition, installation, modification, renovation, repair, extension, renewal,
 12 replacement, rehabilitation, or furnishing of fixtures, machinery, equipment, computers,
 13 software, laboratories, furniture, textbooks, and reference material or other property of
 14 any nature whatsoever used on, in, or in connection with educational facilities.

15 ~~(4)~~(7) 'Casino gambling' means a location or business for the purpose of conducting
 16 illegal gambling activities, but excluding the sale and purchase of lottery tickets or shares
 17 as authorized by this chapter.

18 ~~(5)~~(8) 'Chief executive officer' means the chief executive officer of the Georgia Lottery
 19 Corporation.

20 ~~(6)~~(9) 'Corporation' means the Georgia Lottery Corporation.

21 ~~(7)~~(10) 'Educational facilities' means land, structures, and buildings owned or operated
 22 by and through the board of regents, the State Board of Education, the Department of
 23 Technical and Adult Education, or by any city, county, or independent school system
 24 within this state; provided, however, that a public road or highway leading to an
 25 educational facility shall not be considered an educational facility.

26 ~~(8)~~(11) 'Educational purposes and programs' means capital outlay projects for
 27 educational facilities; tuition grants, scholarships, or loans to citizens of this state to
 28 enable such citizens to attend colleges and universities located within this state,
 29 regardless of whether such colleges and universities are owned or operated by the board
 30 of regents or to attend institutions operated under the authority of the Department of
 31 Technical and Adult Education; costs of providing to teachers at accredited public
 32 institutions who teach levels K-12, personnel at public postsecondary technical institutes
 33 under the authority of the Department of Technical and Adult Education, and professors
 34 and instructors within the University System of Georgia the necessary training in the use
 35 and application of computers and advanced electronic instructional technology to
 36 implement interactive learning environments in the classroom and to access the
 37 state-wide distance learning network; costs associated with repairing and maintaining

1 advanced electronic instructional technology; voluntary pre-kindergarten; and an
2 education shortfall reserve.

3 (12) 'Interested party' means any individual or entity that has notified the corporation of
4 his or her interest in the prize or is a party to a civil matter adverse to the assignor,
5 including actions for alimony and child support.

6 ~~(9)~~(13) 'Lottery,' 'lotteries,' 'lottery game,' or 'lottery games' means any game of chance
7 approved by the board and operated pursuant to this chapter, including, but not limited
8 to, instant tickets, on-line games, and games using mechanical or electronic devices but
9 excluding pari-mutuel betting and casino gambling as defined in this Code section.

10 ~~(10)~~(14) 'Major procurement contract' means any gaming product or service costing in
11 excess of \$75,000.00, including, but not limited to, major advertising contracts, annuity
12 contracts, prize payment agreements, consulting services, equipment, tickets, and other
13 products and services unique to the Georgia lottery, but not including materials, supplies,
14 equipment, and services common to the ordinary operations of a corporation.

15 ~~(11)~~(15) 'Member' or 'members' means a director or directors of the board of directors
16 of the Georgia Lottery Corporation.

17 ~~(12)~~(16) 'Member of a minority' means an individual who is a member of a race which
18 comprises less than 50 percent of the total population of the state.

19 ~~(13)~~(17) 'Minority business' means any business which is owned by:

20 (A) An individual who is a member of a minority who reports as his or her personal
21 income for Georgia income tax purposes the income of such business;

22 (B) A partnership in which a majority of the ownership interest is owned by one or
23 more members of a minority who report as their personal income for Georgia income
24 tax purposes more than 50 percent of the income of the partnership; or

25 (C) A corporation organized under the laws of this state in which a majority of the
26 common stock is owned by one or more members of a minority who report as their
27 personal income for Georgia income tax purposes more than 50 percent of the
28 distributed earnings of the corporation.

29 ~~(14)~~(18) 'Net proceeds' means all revenue derived from the sale of lottery tickets or
30 shares and all other moneys derived from the lottery less operating expenses.

31 ~~(15)~~(19) 'Operating expenses' means all costs of doing business, including, but not
32 limited to, prizes, commissions, and other compensation paid to retailers, advertising and
33 marketing costs, personnel costs, capital costs, depreciation of property and equipment,
34 funds for compulsive gambling education and treatment, amounts held in or paid from
35 a fidelity fund pursuant to Code Section 50-27-19, and other operating costs.

36 ~~(16)~~(20) 'Pari-mutuel betting' means a method or system of wagering on actual races
37 involving horses or dogs at tracks which involves the distribution of winnings by pools.

1 Such term shall not mean lottery games which may be predicated on a horse racing or dog
 2 racing scheme that does not involve actual track events. Such term shall not mean
 3 traditional lottery games which may involve the distribution of winnings by pools.

4 ~~(17)~~(21) 'Person' means any individual, corporation, partnership, unincorporated
 5 association, or other legal entity.

6 ~~(18)~~(22) 'Retailer' means a person who sells lottery tickets or shares on behalf of the
 7 corporation pursuant to a contract.

8 ~~(19)~~(23) 'Share' means any intangible evidence of participation in a lottery game.

9 ~~(20)~~(24) 'Ticket' means any tangible evidence issued by the lottery to provide
 10 participation in a lottery game.

11 ~~(21)~~(25) 'Vendor' means a person who provides or proposes to provide goods or services
 12 to the corporation pursuant to a major procurement contract, but does not include an
 13 employee of the corporation, a retailer, or a state agency or instrumentality thereof. Such
 14 term does not include any corporation whose shares are publicly traded and which is the
 15 parent company of the contracting party in a major procurement contract."

16 SECTION 2.

17 Said article is further amended by revising subparagraph (b)(5)(B) of Code Section 50-27-13,
 18 relating to disposition of lottery proceeds, as follows:

19 "(B)(i) In the event that the year-end balance of a fiscal year is less than 90 percent
 20 of the year-end balance of the fiscal year immediately preceding, then all scholarships
 21 and grants for book allowances under Part 7 of Article 7 of Chapter 3 of Title 20 shall
 22 not exceed \$150.00 per year beginning in the next fiscal year and thereafter. This
 23 provision shall not apply to students who are eligible to participate in the federal Pell
 24 Grant program.

25 (ii) In the event that the year-end balance of any subsequent fiscal year is less than
 26 90 percent of the year-end balance of the fiscal year immediately preceding, then all
 27 scholarships and grants for book allowances under Part 7 of Article 7 of Chapter 3 of
 28 Title 20 shall be eliminated beginning in the subsequent fiscal year and thereafter.
 29 This provision shall not apply to students who are eligible to participate in the federal
 30 Pell Grant program.

31 (iii) In the event that the year-end balance of any further subsequent fiscal year is less
 32 than 90 percent of the year-end balance of the fiscal year immediately preceding, then
 33 all scholarships and grants for mandatory fees under Part 7 of Article 7 of Chapter 3
 34 of Title 20 shall be eliminated beginning in the next fiscal year and thereafter."

SECTION 3.

Said article is further amended by revising paragraph (1) of subsection (c) of Code Section 50-27-24, relating to prize proceeds subject to state income tax, attachments, garnishments, or executions, validation of winning tickets, prohibited purchases, money-dispensing machines, and unclaimed prize money, as follows:

~~"(1) No~~ Except as provided in Code Section 50-27-24.1, no prize, any portion of a prize, or any right of any person to a prize awarded shall be assignable. Any prize or any portion of a prize remaining unpaid at the death of a prize winner shall be paid to the estate of the deceased prize winner or to the trustee of a trust established by the deceased prize winner as settlor if a copy of the trust document or instrument has been filed with the corporation along with a notarized letter of direction from the settlor and no written notice of revocation has been received by the corporation prior to the settlor's death. Following a settlor's death and prior to any payment to such a successor trustee, the corporation shall obtain from the trustee a written agreement to indemnify and hold the corporation harmless with respect to any claims that may be asserted against the corporation arising from payment to or through the trust. Notwithstanding any other provisions of this Code section, any person, pursuant to an appropriate judicial order, shall be paid the prize to which a winner is entitled;"

SECTION 4.

Said article is further amended by adding following Code Section 50-27-24 a new Code section as follows:

"50-27-24.1.

(a) Under an appropriate judicial order, any prize or any portion of a prize or any right of any person to a prize awarded payable by the corporation in installment payments may be paid to any person other than the winner.

(b) The right of a person to a prize payable by the corporation in installment payments may be voluntarily assigned as a whole or in part if the assignment is made to a person designated in accordance with an order of the superior court in the county where the corporation is located. In the case of a voluntary assignment for consideration made under a judicial order, the assignee shall withhold from the purchase price to be paid to the assignor federal and state income taxes in a manner and amount consistent with the procedures of the corporation and pay such withheld taxes to the proper taxing authority in a timely manner and maintain and file all required records, forms, and reports.

(c) On the filing by the assignor or the assignee in the superior court of a petition seeking approval of a voluntary assignment, the filing party shall schedule a hearing on such

1 petition and serve notice of the hearing on all interested parties. The court shall conduct an
2 evidentiary hearing. If the court finds that:

3 (1) The assignment is in writing, is executed by the assignor, and is by its terms subject
4 to the laws of the state;

5 (2) The assignor provides a sworn affidavit attesting that he or she is of sound mind, is
6 in full command of the assignor's faculties, and is not acting under duress;

7 (3) The assignor has been advised about the assignment by an independent attorney who
8 is not related to and not compensated by the assignee or an affiliate of the assignee;

9 (4) The assignor understands that he or she will not receive the prize payments or parts
10 of payments during the years assigned;

11 (5) The assignor understands and agrees that the corporation, directors, and officials and
12 employees of the corporation are not liable or responsible for making any of the assigned
13 payments;

14 (6) The assignee provides the assignor with a one-page disclosure statement in boldface
15 type not less than 14 points in size, setting forth:

16 (A) The payments being assigned by the amount and payment date;

17 (B) The purchase price;

18 (C) The rate of discount to present value assuming daily compounding and funding on
19 the contract date;

20 (D) An itemized listing of all brokers' commissions, service charges, application fees,
21 processing fees, closing costs, filing fees, administrative fees, notary fees, and other
22 commissions, fees, costs, expenses, and charges, and a good faith estimate of all legal
23 fees and court costs payable by the assignor or deductible from the gross amount
24 otherwise payable to the assignor;

25 (E) The net amount payable to the assignor after deduction of all commissions, fees,
26 costs, expenses, and charges described in subparagraph (D) of this paragraph; and

27 (F) The amount of any penalty and the amount of any liquidated damages, inclusive
28 of penalties, payable by the assignor in the event of any breach of the transfer
29 agreement by the assignor;

30 (7) The interest rate or discount rate, as applicable, associated with the assignment does
31 not indicate overreaching or exploitation, does not exceed current usury rates, and does
32 not violate any laws of usury of this state; and

33 (8) The contract of assignment expressly states that the assignor has three business days
34 after signing the contract to cancel the assignment

35 the court shall issue an order approving a voluntary assignment and directing the
36 corporation to make prize payments as a whole or in part to the assignee.

1 (d) Written notice of the petition and proposed assignment and any court hearing
2 concerning the petition and proposed assignment shall be given to the corporation's
3 counsel at least ten days before a court hearing. The corporation need not appear in or be
4 named as party to an action that seeks judicial approval of an assignment but may intervene
5 as of right in the action. A certified copy of a court order approving a voluntary
6 assignment shall be given to the corporation not later than ten days before the date on
7 which the payment is to be made. Written notice of the petition and proposed assignment
8 and any court hearing concerning the petition and proposed assignment shall be served by
9 certified mail to the last known address of any interested party. The interested party need
10 not appear in or be named as party to an action that seeks judicial approval of an
11 assignment but may intervene as of right in the action.

12 (e) The corporation, not later than ten days after receiving a certified copy of a court order
13 approving a voluntary assignment, shall send the assignor and the assignee written
14 confirmation of the court approved assignment and the intent of the corporation to rely on
15 the assignment in making payments to the assignee named in the order free from any
16 attachments, garnishments, or executions.

17 (f) A voluntary assignment may not include or cover payments or parts of payments to the
18 assignor to the extent that such payments are subject to attachments, garnishments, or
19 executions authorized and issued pursuant to law as provided in subsection (b) of Code
20 Section 50-27-24. Each court order issued under this subsection shall provide that any
21 obligations of the assignor created by subsection (b) of Code Section 50-27-24 shall be
22 satisfied out of the proceeds to be received by the assignor.

23 (g) A voluntary assignment may not include portions of payments that are subject to offset
24 on account of a defaulted or delinquent child support obligation, nonwage garnishment, or
25 criminal restitution obligation or on account of a debt owed to a state agency. Each court
26 order issued under subsection (c) of this Code section shall provide that any delinquent
27 child support or criminal restitution obligations of the assignor and any debts owed to a
28 state agency by the assignor, as of the date of the court order, shall be set off by the
29 corporation first against remaining payments or portions thereof due the prize winner and
30 then against payments due the assignee.

31 (h) The corporation, the directors, and officials and employees of the corporation are not
32 liable under this Code section after payment of an assigned prize is made. The assignor
33 and assignee shall hold harmless and indemnify the corporation, the directors, and the state
34 and its employees and agents from all claims, suits, actions, complaints, or liabilities
35 related to the assignment.

36 (i) The corporation may establish a reasonable fee to defray administrative expenses
37 associated with assignments made under this Code section, including a processing fee

1 imposed by a private annuity provider. The amount of the fee shall reflect the direct and
2 indirect costs of processing assignments.

3 (j) The assignee shall notify the corporation of its business location and mailing address
4 for payment purposes and of any change in location or address during the entire course of
5 the assignment.

6 (k) A court order or a combination of court orders under this Code section may not require
7 the corporation to divide a single prize payment among more than three different persons.
8 This Code section does not prohibit the substitution of assignees as long as there are not
9 more than three assignees at any one time for any one prize payment. Any subsequent
10 assignee is bound as the original assignee by the provisions of this Code section and the
11 terms and conditions of the contract of assignment.

12 (l) If the federal Internal Revenue Service or a court of competent jurisdiction issues a
13 determination letter, revenue ruling, or other public document declaring that the voluntary
14 assignment of prizes will affect the federal income tax treatment of lottery prize winners
15 who do not assign their prizes, then within 15 days after the corporation receives the letter,
16 ruling, or other document, the director of the corporation shall file a copy of it with the
17 Attorney General and a court may not issue an order authorizing a voluntary assignment
18 under this Code section.

19 (m) The provisions of this Code section shall prevail over any inconsistent provision in
20 Code Section 11-9-109.

21 (n) Any agreement or option to sell, assign, pledge, hypothecate, transfer, or encumber a
22 lottery prize or any portion thereof prior to the effective date of this Code section shall be
23 void in its entirety."

24 **SECTION 5.**

25 This Act shall become effective upon its approval by the Governor or upon its becoming law
26 without such approval.

27 **SECTION 6.**

28 All laws and parts of laws in conflict with this Act are repealed.