

By: Carona

S.B. No. 626

A BILL TO BE ENTITLED

1 AN ACT
2 relating to lottery winnings, including assignment of winnings,
3 periodic payments of winnings, and the deduction of child support
4 delinquency amounts from winnings.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 466.407, Government Code, is amended to
7 read as follows:

8 Sec. 466.407. DEDUCTIONS FROM PRIZES. (a) The executive
9 director shall deduct the amount of a delinquent tax or other money
10 from the winnings of a person who has been finally determined to be:

11 (1) delinquent in the payment of a tax or other money
12 collected by the comptroller, the Texas Workforce Commission, or
13 the Texas Alcoholic Beverage Commission;

14 (2) ~~[delinquent in making child support payments~~
15 ~~administered or collected by the attorney general,~~

16 ~~[(3)]~~ delinquent in reimbursing the Health and [Texas
17 ~~Department of]~~ Human Services Commission for a benefit granted in
18 error under the food stamp program or the program of financial
19 assistance under Chapter 31, Human Resources Code;

20 (3) ~~[(4)]~~ in default on a loan made under Chapter 52,
21 Education Code; or

22 (4) ~~[(5)]~~ in default on a loan guaranteed under
23 Chapter 57, Education Code.

24 (a-1) The executive director shall deduct delinquent child

1 support payments from the winnings of a person in the amount of the
2 delinquency as determined by a court or a Title IV-D agency under
3 Chapter 231, Family Code.

4 (b) If a person's winnings exceed the amount of a
5 delinquency under Subsection (a) or (a-1), the director shall pay
6 the balance to the person. The director shall transfer the amount
7 deducted to the appropriate agency or to the state disbursement
8 unit under Chapter 234, Family Code, as applicable.

9 (c) The [~~attorney general,~~] comptroller, Texas Workforce
10 Commission, Texas Alcoholic Beverage Commission, Health and [Texas
11 Department of] Human Services Commission, Texas Higher Education
12 Coordinating Board, and Texas Guaranteed Student Loan Corporation
13 shall each provide the executive director with a report of persons
14 who have been finally determined to be delinquent in the payment of
15 a tax or other money collected by the agency. The Title IV-D agency
16 under Chapter 231, Family Code, shall provide the executive
17 director with a report of persons who have been determined to be
18 delinquent in the payment of child support obligations. The
19 commission shall adopt rules regarding the form and frequency of
20 reports under this subsection.

21 SECTION 2. Section 466.4075, Government Code, as added by
22 Chapter 1104 (H.B. 2424), Acts of the 75th Legislature, Regular
23 Session, 1997, is amended to read as follows:

24 Sec. 466.4075. DEDUCTIONS OF CHILD SUPPORT FROM CERTAIN
25 LOTTERY WINNINGS. (a) This section applies only to a prize that is
26 [~~required to be paid in periodic installments and is~~] awarded by the
27 director under Section 466.402(b), including a prize required to be

1 paid in periodic installments.

2 (b) In the event of a lump-sum payment, the executive
3 director shall deduct from winnings an amount for delinquent child
4 support owed by the prizewinner if the executive director has been
5 provided with a certified copy of a court order or a writ of
6 withholding issued under Chapter 158, Family Code, or notice of a
7 child support lien created under Subchapter G, Chapter 157, Family
8 Code.

9 (c) If the prize is required to be paid in periodic
10 installments, the [The] executive director shall deduct [~~an amount~~
11 ~~a court has ordered a person to pay as child support~~] from [~~a~~
12 ~~person's~~] periodic installment winnings paid to or on behalf of a
13 prizewinner amounts owed by the winner for child support if the
14 executive director has been provided with a certified copy of a
15 court order or a writ of withholding issued under Chapter 158,
16 Family Code, or notice of a child support lien created under
17 Subchapter G, Chapter 157, Family Code.

18 (d) [~~(c)~~] The court order, writ of withholding, or notice of
19 a child support lien provided under Subsection (c) must direct
20 child support to be paid in the manner in which the periodic
21 installment prize is paid. The executive director is not required
22 to receive the court order, the writ of withholding, or notice of
23 child support lien until the executive director determines there is
24 a periodic installment prize to which the winner is entitled.

25 (e) [~~(d)~~] If a person's winnings exceed the amount
26 deducted under Subsection (b) or (c) and Section 466.407 or any
27 other section of this chapter allowing a deduction from the

1 winnings of a lottery winner, the executive director shall pay the
2 balance to the person. The executive director shall transfer the
3 money deducted under Subsection (b) or (c) to the appropriate
4 person, the clerk of the court that issued the order for placement
5 in the registry of the court, or the state disbursement unit under
6 Chapter 234, Family Code, as appropriate.

7 (f) [~~(e)~~] The commission shall adopt rules necessary to
8 administer [~~under~~] this section, including rules that:

9 (1) allow a person or the Title IV-D agency under
10 Chapter 231, Family Code, with a child support court order or writ
11 of withholding or notice of lien issued under Chapter 157 or 158,
12 Family Code, to file copies of the order, writ, or notice with the
13 commission; and

14 (2) describe the procedures used by the commission to
15 compare the list of persons receiving [~~winning~~] periodic
16 installment prizes under Section 466.402(b) with a list of obligors
17 compiled from orders, writs, and notices filed under Subdivision
18 (1) and to make the deductions required under this section.

19 (g) Section 9.406, Business & Commerce Code, does not apply
20 to periodic payments of lottery winnings under this section.

21 SECTION 3. Section 466.410, Government Code, is amended by
22 amending Subsections (a), (b), and (e) and adding Subsection (k) to
23 read as follows:

24 (a) A person may assign, in whole or in part, the right to
25 receive prize payments that are paid by the commission in
26 installments over time if the assignment is made to a person
27 designated by an order of a district court of Travis County, except

1 that:

2 (1) installment prize payments due within the final
3 two years of the prize payment schedule may not be assigned; and

4 (2) a person may not assign the right to receive prize
5 payments if the person is subject to a child support order and is
6 delinquent in making support payments under that order.

7 (b) A district court shall issue an order approving a
8 voluntary assignment and directing the commission to direct prize
9 payments in whole or in part to the assignee if:

10 (1) a copy of the petition for the order and copies of
11 all notices of any hearing in the matter have been served on the
12 executive director not later than 20 days prior to any hearing or
13 entry of any order. The commission may intervene in a proceeding to
14 protect the interests of the commission but shall not be considered
15 an indispensable or necessary party. A petition filed under this
16 section shall include in the caption the prizewinner's name as it
17 appears on the lottery claim form;

18 (2) the assignment is in writing, executed by the
19 assignor and assignee (or designated agent), and by its terms
20 subject to the laws of this state; and

21 (3) the assignor provides a sworn and notarized
22 affidavit stating that the assignor:

23 (A) is of sound mind, over 18 years of age, is in
24 full command of the person's faculties, and is not acting under
25 duress;

26 (B) is not delinquent in payment of child support
27 under a court or administrative order issued in this state or

1 another state;

2 (C) has been advised regarding the assignment by
3 independent legal counsel and has had the opportunity to receive
4 independent financial and tax advice concerning the effects of the
5 assignment;

6 (D) [~~(C)~~] understands that the assignor will not
7 receive the prize payments, or portions of the prize payments, for
8 the assigned years;

9 (E) [~~(D)~~] understands and agrees that with
10 regard to the assigned payments, the state, the commission, and its
11 officials and employees will have no further liability or
12 responsibility to make the assigned payments to the assignor;

13 (F) [~~(E)~~] has been provided a one-page written
14 disclosure statement stating, in boldfaced type, 14 points or
15 larger:

16 (i) the payments being assigned, by amounts
17 and payment dates;

18 (ii) the purchase price being paid, if any;

19 (iii) if a purchase price is paid, the rate
20 of discount to the present value of the prize, assuming daily
21 compounding and funding on the contract date; and

22 (iv) the amount, if any, of any origination
23 or closing fees that will be charged to the assignor; and

24 (G) [~~(F)~~] was advised in writing, at the time the
25 assignment was signed, that the assignor had the right to cancel
26 without any further obligation not later than the third business
27 day after the date the assignment was signed.

1 (e) The court order shall include specific findings as to
2 compliance with the requirements of Subsections (b), (c), and (d)
3 and shall specify the prize payment or payments assigned, or any
4 portion thereof, including the dates and amounts of the payments to
5 be assigned, the years in which each payment is to begin and end,
6 the gross amount of the annual payments assigned before taxes, and
7 the prizewinner's name as it appears on the lottery claim form[~~, the~~
8 ~~assignor's social security or tax identification number, and, if~~
9 ~~applicable, the citizenship or resident alien number of the~~
10 ~~assignee if an individual]~~.

11 (k) Section 9.406, Business & Commerce Code, does not apply
12 to periodic payments of lottery winnings under this section.

13 SECTION 4. Section 466.4075, Government Code, as added by
14 Chapter 135 (H.B. 566), Acts of the 75th Legislature, Regular
15 Session, 1997, is repealed.

16 SECTION 5. This Act takes effect September 1, 2011.