

1-1 By: Carona S.B. No. 626
1-2 (In the Senate - Filed February 11, 2011; February 17, 2011,
1-3 read first time and referred to Committee on State Affairs;
1-4 March 30, 2011, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 8, Nays 0; March 30, 2011,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 626 By: Lucio

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to lottery winnings, including assignment of winnings,
1-11 periodic payments of winnings, and the deduction of child support
1-12 delinquency amounts from winnings paid to a prize winner.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Subchapter I, Chapter 466, Government Code, is
1-15 amended by adding Section 466.4001 to read as follows:

1-16 Sec. 466.4001. DEFINITION. In this subchapter, "prize
1-17 winner" means a person who presents a valid winning ticket, claims a
1-18 lottery prize, and is recognized by the commission as the person
1-19 entitled to receive lottery prize payments. The term does not
1-20 include an assignee of a lottery prize.

1-21 SECTION 2. Subsection (b), Section 466.406, Government
1-22 Code, is amended to read as follows:

1-23 (b) Payment of prize payments not previously assigned as
1-24 provided by this section or Section 466.410 shall be made to the
1-25 estate of a deceased prize winner [~~prizewinner~~] if the prize winner
1-26 [~~prizewinner~~] was an individual.

1-27 SECTION 3. Section 466.407, Government Code, is amended by
1-28 amending Subsections (a) and (b) and adding Subsection (a-1) to
1-29 read as follows:

1-30 (a) The executive director shall deduct the amount of a
1-31 delinquent tax or other money from the winnings of a prize winner
1-32 [~~person~~] who has been finally determined to be:

1-33 (1) delinquent in the payment of a tax or other money
1-34 to a state agency and that delinquency is reported to [collected by]
1-35 the comptroller under Section 403.055[, the Texas Workforce
1-36 Commission, or the Texas Alcoholic Beverage Commission];

1-37 (2) [~~delinquent in making child support payments~~
1-38 ~~administered or collected by the attorney general;~~

1-39 [(3) ~~delinquent in reimbursing the Texas Department of~~
1-40 ~~Human Services for a benefit granted in error under the food stamp~~
1-41 ~~program or the program of financial assistance under Chapter 31,~~
1-42 ~~Human Resources Code;~~

1-43 [(4)] in default on a loan made under Chapter 52,
1-44 Education Code; or

1-45 (3) [(5)] in default on a loan guaranteed under
1-46 Chapter 57, Education Code.

1-47 (a-1) The executive director shall deduct delinquent child
1-48 support payments from the winnings of a prize winner in the amount
1-49 of the delinquency as determined by a court or a Title IV-D agency
1-50 under Chapter 231, Family Code.

1-51 (b) If the [a person's] winnings of a prize winner exceed
1-52 the amount of a delinquency under Subsection (a) or (a-1), the
1-53 director shall pay the balance to the prize winner [person]. The
1-54 director shall transfer the amount deducted to the appropriate
1-55 agency or to the state disbursement unit under Chapter 234, Family
1-56 Code, as applicable.

1-57 SECTION 4. Section 466.4075, Government Code, as added by
1-58 Chapter 1104 (H.B. 2424), Acts of the 75th Legislature, Regular
1-59 Session, 1997, is amended to read as follows:

1-60 Sec. 466.4075. DEDUCTIONS OF CHILD SUPPORT FROM CERTAIN
1-61 LOTTERY WINNINGS. (a) This section applies only to a prize that is
1-62 [required to be paid in periodic installments and is] awarded by the
1-63 director under Section 466.402(b), including a prize paid in

2-1 periodic installments.

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

2-9 (c) If the prize is paid in periodic installments, the [The]
 2-10 executive director shall deduct [an amount a court has ordered a
 2-11 person to pay as child support] from [a person's] periodic
 2-12 installment winnings paid to a prize winner amounts owed by the
 2-13 prize winner for child support if the executive director has been
 2-14 provided with a certified copy of a court order or a writ of
 2-15 withholding issued under Chapter 158, Family Code, or notice of a
 2-16 child support lien created under Subchapter G, Chapter 157, Family
 2-17 Code. This subsection does not apply to the payment of amounts to a
 2-18 person to whom the prize winner assigns the right to receive prize
 2-19 payments under Section 466.410.

2-20 (d) [~~(c)~~] The court order, writ of withholding, or notice of
 2-21 a child support lien provided under Subsection (c) must direct
 2-22 child support to be paid in the manner in which the periodic
 2-23 installment prize is paid. The executive director is not required
 2-24 to receive the court order, the writ of withholding, or notice of
 2-25 child support lien until the executive director determines there is
 2-26 a periodic installment prize to which the prize winner is entitled.

2-27 (e) [~~(d)~~] If the [a person's] winnings of a prize winner
 2-28 exceed the amount deducted under Subsection (b) or (c) and Section
 2-29 466.407 or any other section of this chapter allowing a deduction
 2-30 from the winnings of a prize winner, the executive director shall
 2-31 pay the balance to the prize winner [person]. The executive
 2-32 director shall transfer the money deducted under Subsection (b) or
 2-33 (c) to the appropriate person as determined by court order, the
 2-34 clerk of the court that issued the order for placement in the
 2-35 registry of the court, or the state disbursement unit under Chapter
 2-36 234, Family Code, as appropriate.

2-37 (f) [~~(e)~~] The commission may [shall] adopt rules necessary
 2-38 to administer [under] this section [that:

2-39 [(1) allow a person with a court order under Chapter
 2-40 157 or 158, Family Code, to file copies of the order with the
 2-41 commission; and

2-42 [(2) describe the procedures used by the commission to
 2-43 compare the list of persons winning periodic installment prizes
 2-44 under Section 466.402(b) with a list of obligors compiled from
 2-45 orders filed under Subdivision (1) and to make the deductions
 2-46 required under this section].

2-47 (g) Section 9.406, Business & Commerce Code, does not apply
 2-48 to periodic payments of lottery prize winnings under this section.

2-49 SECTION 5. Section 466.410, Government Code, is amended by
 2-50 amending Subsections (a), (b), (e), and (i) and adding Subsection
 2-51 (k) to read as follows:

2-52 (a) A person may assign, in whole or in part, the right to
 2-53 receive prize payments that are paid by the commission in
 2-54 installments over time if the assignment is made to a person
 2-55 designated by an order of a district court of Travis County, except
 2-56 that a person may not assign the right to receive prize payments if
 2-57 the person is subject to a child support order and is delinquent in
 2-58 making support payments under that order [installment prize
 2-59 payments due within the final two years of the prize payment
 2-60 schedule may not be assigned].

2-61 (b) A district court shall issue an order approving a
 2-62 voluntary assignment and directing the commission to direct prize
 2-63 payments in whole or in part to the assignee if:

2-64 (1) a copy of the petition for the order and copies of
 2-65 all notices of any hearing in the matter have been served on the
 2-66 executive director not later than 20 days prior to any hearing or
 2-67 entry of any order. The commission may intervene in a proceeding to
 2-68 protect the interests of the commission but shall not be considered
 2-69 an indispensable or necessary party. A petition filed under this

3-1 section shall include in the caption the prize winner's
 3-2 [~~prizewinner's~~] name as it appears on the lottery claim form;

3-3 (2) the assignment is in writing, executed by the
 3-4 assignor and assignee (or designated agent), and by its terms
 3-5 subject to the laws of this state; and

3-6 (3) the assignor provides a sworn and notarized
 3-7 affidavit stating that the assignor:

3-8 (A) is of sound mind, over 18 years of age, is in
 3-9 full command of the person's faculties, and is not acting under
 3-10 duress;

3-11 (B) is not delinquent in payment of child support
 3-12 under a court or administrative order issued in this state or
 3-13 another state;

3-14 (C) has been advised regarding the assignment by
 3-15 independent legal counsel and has had the opportunity to receive
 3-16 independent financial and tax advice concerning the effects of the
 3-17 assignment;

3-18 (D) [~~(C)~~] understands that the assignor will not
 3-19 receive the prize payments, or portions of the prize payments, for
 3-20 the assigned years;

3-21 (E) [~~(D)~~] understands and agrees that with
 3-22 regard to the assigned payments, the state, the commission, and its
 3-23 officials and employees will have no further liability or
 3-24 responsibility to make the assigned payments to the assignor;

3-25 (F) [~~(E)~~] has been provided a one-page written
 3-26 disclosure statement stating, in boldfaced type, 14 points or
 3-27 larger:

3-28 (i) the payments being assigned, by amounts
 3-29 and payment dates;

3-30 (ii) the purchase price being paid, if any;

3-31 (iii) if a purchase price is paid, the rate
 3-32 of discount to the present value of the prize, assuming daily
 3-33 compounding and funding on the contract date; and

3-34 (iv) the amount, if any, of any origination
 3-35 or closing fees that will be charged to the assignor; and

3-36 (G) [~~(F)~~] was advised in writing, at the time the
 3-37 assignment was signed, that the assignor had the right to cancel
 3-38 without any further obligation not later than the third business
 3-39 day after the date the assignment was signed.

3-40 (e) The court order shall include specific findings as to
 3-41 compliance with the requirements of Subsections (b), (c), and (d)
 3-42 and shall specify the prize payment or payments assigned, or any
 3-43 portion thereof, including the dates and amounts of the payments to
 3-44 be assigned, the years in which each payment is to begin and end,
 3-45 the gross amount of the annual payments assigned before taxes, and
 3-46 the [~~prizewinner's~~] name of the prize winner as it appears on the
 3-47 lottery claim form[, the assignor's social security or tax
 3-48 identification number, and, if applicable, the citizenship or
 3-49 resident alien number of the assignee if an individual].

3-50 (i) Notwithstanding any other provision of this section,
 3-51 there will be no right to assign prize payments following:

3-52 (1) the issuance, by the Internal Revenue Service, of
 3-53 a technical rule letter, revenue ruling, or other public ruling of
 3-54 the Internal Revenue Service that determines that, based on the
 3-55 right of assignment as provided by this section, a lottery prize
 3-56 winner [~~prizewinner~~] who does not assign prize payments would be
 3-57 subject to an immediate income tax liability for the value of the
 3-58 entire prize rather than annual income tax liability for each
 3-59 installment when paid; or

3-60 (2) the issuance by a court of a published decision
 3-61 holding that, based on the right of assignment as provided by this
 3-62 section, a lottery prize winner [~~prizewinner~~] who does not assign
 3-63 prize payments would be subject to an immediate income tax
 3-64 liability for the value of the entire prize rather than annual
 3-65 income tax liability for each installment when paid.

3-66 (k) Section 9.406, Business & Commerce Code, does not apply
 3-67 to periodic payments of lottery prize winnings under this section.

3-68 SECTION 6. (a) Subsection (c), Section 466.407,
 3-69 Government Code, is repealed.

4-1 (b) Section 466.4075, Government Code, as added by Chapter
4-2 135 (H.B. 566), Acts of the 75th Legislature, Regular Session,
4-3 1997, is repealed.

4-4 SECTION 7. This Act takes effect immediately if it receives
4-5 a vote of two-thirds of all the members elected to each house, as
4-6 provided by Section 39, Article III, Texas Constitution. If this
4-7 Act does not receive the vote necessary for immediate effect, this
4-8 Act takes effect September 1, 2011.

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