



January 24, 2014

SENATE BILL No. 312

DIGEST OF SB 312 (Updated January 22, 2014 4:26 pm - DI 106)

Citations Affected: IC 4-30; IC 34-28.

Synopsis: Assignment of lottery prizes. Provides that a person who wins a prize payable in installments from the lottery commission may assign the future prize payments under certain circumstances upon court approval. Sets forth requirements for a court order approving a prize assignment. Requires that a petition to assign a prize must be served upon the lottery commission's counsel. Requires the director of the lottery commission to investigate and certify whether a person who petitions for a lottery prize assignment has or has not satisfied debts to state agencies. Provides that if the Internal Revenue Service or a court issues a determination or ruling that the voluntary assignment of a prize will affect federal income tax treatment, the commission shall file the determination or ruling with the attorney general's office and the Indiana judicial center, and a court may not issue a voluntary assignment of a prize after the date of the determination or ruling. Adds the department of child services to the list of agencies that must identify to the commission individuals who owe past due child support.

Effective: July 1, 2014.

Head

January 14, 2014, read first time and referred to Committee on Judiciary.
January 23, 2014, amended, reported favorably — Do Pass; reassigned to Committee on Appropriations.

SB 312—LS 6907/DI 107



January 24, 2014

Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

SENATE BILL No. 312

A BILL FOR AN ACT to amend the Indiana Code concerning gaming.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 4-30-5-6 IS ADDED TO THE INDIANA CODE
2 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2014]: **Sec. 6. If a person files a petition to assign a lottery prize**
4 **under IC 34-28-9 and the person has had debts to a state agency,**
5 **the director shall:**
6 (1) **investigate whether the person has any outstanding debts**
7 **to a state agency; and**
8 (2) **submit a certified letter, within ten (10) days after**
9 **receiving the petition, to the petitioner and the court in which**
10 **the petition is filed that:**
11 (A) **references the cause number of the petition to assign a**
12 **lottery prize; and**
13 (B) **states whether the person has or has not satisfied debts**
14 **to a state agency.**
15 SECTION 2. IC 4-30-11-2 IS AMENDED TO READ AS
16 FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 2. (a) Except as**

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1 **provided in section 2.5 of this chapter**, the right of any person to a
2 prize is not assignable.

3 (b) A prize may be paid to the estate of a deceased prize winner or
4 to a person designated under an appropriate judicial order.

5 SECTION 3. IC 4-30-11-2.5 IS ADDED TO THE INDIANA CODE
6 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
7 1, 2014]: **Sec. 2.5. (a) The right of a person to a prize is assignable
8 if the prize is paid by the commission in installments over time.**

9 (b) A prize described in subsection (a) may be assigned, in whole
10 or in part, if the assignment is made to a person or entity approved
11 by a court based on a petition filed under IC 34-28-9.

12 (c) A prize payment may not be assigned to more than three (3)
13 individuals or entities.

14 (d) An individual or entity may be substituted for an individual
15 or entity that is assigned a prize.

16 (e) If more than one (1) person owns a prize, any assignment of
17 the prize must be made by each of the individuals who own the
18 prize.

19 (f) A prize cannot be assigned until all debts listed in section 11
20 of this chapter are satisfied.

21 (g) The commission may charge a reasonable fee to defray the
22 cost of any administrative expenses associated with assignments
23 approved by a court under IC 34-28-9. The fee may include the
24 cost to the commission of a reasonable processing fee charged by
25 a private annuity provider based on the direct and indirect costs of
26 processing the assignment.

27 (h) A person who enters into a contract to assign a prize under
28 this section may cancel the contract assigning the person's prize
29 within three (3) business days after the date the contract assigning
30 the prize is signed.

31 (i) A contract assigning a prize and entered into before July 1,
32 2014, is unenforceable and invalid.

33 SECTION 4. IC 4-30-11-10 IS AMENDED TO READ AS
34 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 10. The commission is
35 discharged of all liability upon payment of a prize, **including a prize
36 that has been assigned under section 2.5 of this chapter.**

37 SECTION 5. IC 4-30-11-11, AS AMENDED BY P.L.172-2011,
38 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
39 JULY 1, 2014]: Sec. 11. (a) As used in this section, "debt" means an
40 obligation that is evidenced by an assessment or lien issued by a
41 state agency, a judgment, or a final order of an administrative
42 agency.



1 (a) **(b)** The treasurer of state, the department of state revenue, the
 2 department of administration, the Indiana department of transportation,
 3 the attorney general, **the department of child services**, and the courts
 4 shall identify to the commission, in the form and format prescribed by
 5 the commission and approved by the auditor of state, a person who:

- 6 (1) owes an outstanding debt to a state agency;
 7 (2) is on the department of state revenue's most recent tax warrant
 8 list; or
 9 (3) owes **past due** child support collected and paid to a recipient
 10 through a court.

11 **(b) (c)** Before the payment of a prize of more than five hundred
 12 ninety-nine dollars (\$599) to a claimant identified under subsection ~~(a)~~;
 13 **(b)**, the commission shall deduct the amount of the obligation from the
 14 prize money and transmit the deducted amount to the auditor of state.
 15 The commission shall pay the balance of the prize money to the prize
 16 winner after deduction of the obligation. If a prize winner owes
 17 multiple obligations subject to offset under this section and the prize is
 18 insufficient to cover all obligations, the amount of the prize shall be
 19 applied as follows:

- 20 (1) First, to the child support obligations **past due and** owed by
 21 the prize winner that are collected and paid to a recipient through
 22 a court.
 23 (2) Second, to judgments owed by the prize winner.
 24 (3) Third, to tax liens owed by the prize winner.
 25 (4) Fourth, to unsecured debts owed by the prize winner **to a state**
 26 **agency.**

27 Within each of the categories described in subdivisions (1) through (4),
 28 the amount and priority of the prize shall be applied in the manner that
 29 the auditor of state determines to be appropriate. The commission shall
 30 reimburse the auditor of state pursuant to an agreement under
 31 IC 4-30-15-5 for the expenses incurred by the auditor of state in
 32 carrying out the duties required by this section.

33 ~~(c) As used in this section, "debt" means an obligation that is~~
 34 ~~evidenced by an assessment or lien issued by a state agency, a~~
 35 ~~judgment, or a final order of an administrative agency.~~

36 SECTION 6. IC 34-28-9 IS ADDED TO THE INDIANA CODE AS
 37 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 38 1, 2014]:

39 **Chapter 9. Assignment of Lottery Prizes**

40 **Sec. 1. (a) As set forth in IC 4-30-11-2.5, a person who has won**
 41 **a prize from the state lottery commission created under IC 4-30-3**
 42 **may file a verified petition with the Marion circuit court or a**



1 circuit or superior court of the county where the person resides to
2 approve the assignment of the prize.

3 (b) A verified petition filed under this section must include:

4 (1) a statement that the person understands the assignment of
5 the prize is voluntary;

6 (2) a statement explaining to whom the prize would be
7 assigned;

8 (3) a statement that the person is of sound mind, is in full
9 command of the person's faculties, and is not acting under
10 duress;

11 (4) a statement detailing that the person has had the
12 opportunity to receive or has received legal, financial, and tax
13 advice from a person or entity other than the person or entity
14 that would be assigned the prize;

15 (5) a statement that the person understands that the person
16 will not receive the future payments of the prize after the
17 prize payments are assigned;

18 (6) a statement that the person understands that, with regard
19 to the assigned payments of the prize, the state lottery
20 commission and its employees are not liable to make any
21 additional prize payments to the person;

22 (7) a statement that the person understands that the person
23 may cancel the contract assigning the person's prize within
24 three (3) business days after the date the contract assigning
25 the prize is signed;

26 (8) details of the proposed assignment, including:

27 (A) the amount of the payments assigned;

28 (B) the dates the payments are assigned;

29 (C) the purchase price of the payments assigned;

30 (D) the rate of discount to present value, assuming daily
31 compounding and funding on the contract date; and

32 (E) the amount, if any, of any origination or closing fees
33 charged to the person;

34 (9) a statement detailing whether the person:

35 (A) owes past due child support;

36 (B) owes money as part of a judgment or garnishment;

37 (C) has not satisfied an order for criminal restitution; or

38 (D) owes any debt to an Indiana state agency that has
39 provided written notice to the person regarding the debt;

40 and

41 (10) a sworn affirmation that the contents of the petition are
42 true.



1 **Sec. 2. If a court finds that a prize from the state lottery**
 2 **commission may be assigned based on a petition filed under section**
 3 **1 of this chapter and IC 4-30-11-2.5, the court shall issue an order**
 4 **approving the prize assignment. The order must include a**
 5 **statement that the petitioner:**

- 6 **(1) has filed a verified petition under subsection (b);**
 7 **(2) understands:**
 8 **(A) the assignment of the prize is voluntary;**
 9 **(B) to whom the prize will be assigned;**
 10 **(C) the person will not receive future payments of the prize**
 11 **after the prize is assigned;**
 12 **(D) the state lottery commission and its employees are not**
 13 **liable to make any additional payments to the person; and**
 14 **(E) that the person may cancel the contract assigning the**
 15 **person's prize within three (3) business days after the date**
 16 **the contract assigning the prize is signed;**
 17 **(3) is of sound mind, is in full command of the person's**
 18 **faculties, and is not acting under duress;**
 19 **(4) has received or has had the opportunity to receive legal,**
 20 **financial, and tax advice from an person or entity other than**
 21 **the person or entity that would be assigned the prize;**
 22 **(5) has no debts to state agencies or has satisfied all past debts**
 23 **to state agencies; and**
 24 **(6) has received, prior to signing the contract assigning the**
 25 **prize, a written disclosure statement, on a separate piece of**
 26 **paper, in bold type with a font at least fourteen (14) points,**
 27 **stating the details of the proposed assignment, including:**
 28 **(A) the amount of the payments assigned;**
 29 **(B) the dates of the payments assigned;**
 30 **(C) the purchase price of the payments assigned;**
 31 **(D) the rate of discount to present value, assuming daily**
 32 **compounding and funding on the contract date; and**
 33 **(E) the amount, if any, of any origination or closing fees**
 34 **charged to the person.**

35 **Sec. 3. A person filing a petition under this chapter shall serve**
 36 **a copy of the petition on the state lottery commission's counsel.**

37 **Sec. 4. If a court schedules a hearing on a petition filed under**
 38 **this chapter, the court shall notify the state lottery commission's**
 39 **counsel and the petitioner at least twenty (20) days before the**
 40 **hearing date.**

41 **Sec. 5. (a) The state lottery commission is not required to**
 42 **respond to a petition filed under this chapter.**



1 **(b) The state lottery commission may file a response to a petition**
2 **filed under this chapter and may participate in any hearings, if**
3 **any, on petitions filed under this chapter.**

4 **Sec. 6. If a court approves a prize assignment under this**
5 **chapter, the court shall provide a copy of the order to the state**
6 **lottery commission within twenty (20) days of the order being**
7 **entered and at least thirty (30) days before the first assigned**
8 **payment is to be made to the assignor.**

9 **Sec. 7. A court may issue an order under this chapter without a**
10 **hearing.**

11 **Sec. 8. If the Internal Revenue Service or a court issues a**
12 **determination letter, revenue ruling, other public ruling of the**
13 **Internal Revenue Service, or a published decision to the**
14 **commission or any lottery winner declaring that the voluntary**
15 **assignment of prizes will affect the federal income tax treatment of**
16 **a prize winner who does not assign the winner's prizes, the state**
17 **lottery commission shall file a copy of the letter, ruling, or decision**
18 **with the attorney general's office and the Indiana judicial center.**
19 **A court may not issue an order authorizing a voluntary assignment**
20 **of a prize after the date the ruling, letter, or published decision is**
21 **filed.**



COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred Senate Bill No. 312, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 4, line 36, after "a" insert "**judgment or**".

and when so amended that said bill do pass and be reassigned to the Senate Committee on Appropriations.

(Reference is to SB 312 as introduced.)

STEELE, Chairperson

Committee Vote: Yeas 7, Nays 0.

