

# HOUSE BILL REPORT

## EHB 2142

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### As Passed Legislature

**Title:** An act relating to assignment of rights of lottery winnings.

**Brief Description:** Regulating assignment rights of lottery winnings.

**Sponsors:** By House Committee on Commerce & Labor (originally sponsored by Representatives Lisk, Cole and Honeyford).

**Brief History:**

**Committee Activity:**

Commerce & Labor: 3/3/97, 3/5/97 [DP].

**Floor Activity:**

Passed House: 3/14/97, 94-0.

Passed Legislature.

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### HOUSE COMMITTEE ON COMMERCE & LABOR

**Majority Report:** Do pass. Signed by 8 members: Representatives McMorris, Chairman; Conway, Ranking Minority Member; Wood, Assistant Ranking Minority Member; Boldt; Clements; Cole; Hatfield and Lisk.

**Staff:** Pam Madson (786-7166).

**Background:** Lotto jackpot winners receive their prize payments in annual installments paid over a period of 20 years. In 1996, Lotto winners were given the authority to assign their right to receive their annual payments to a third party for a lump sum cash payment. This right to assign lotto winnings is contingent upon a ruling from the Internal Revenue Service (IRS) that voluntary assignment will not affect the federal income tax treatment of those winners who do not assign their rights.

Lotto winners who wish to assign the right to receive annual prize payments must seek an order from superior court allowing the assignment. The order must be based on findings that the prize winner has had the opportunity to be represented by legal counsel, has received independent financial and tax advice, and is not acting under duress.

In July 1996, the IRS issued a private letter ruling that left open the possibility of adverse tax consequences to those winners who do not assign their right to receive prizes payments. A winner pays federal tax on the amount of their prize that he or she receives each year. A winner who assigns his or her right to receive prize payments and receives a lump sum cash payment must pay tax on the amount of the lump sum payment. A winner, having the option to convert the annual payments to a lump sum cash payment, may be treated by the IRS as having received the full value of the prize on which tax is due, whether he or she chooses to exercise the option or not. If the IRS finds there is a ready market for purchasing lotto prizes, the IRS may treat all winners for tax purposes as if they have assigned their prizes, including current and past winners.

Based on the IRS private letter ruling, the Lottery Commission has objected to processing requested assignments. The court has approved a number of assignments and the commission has appealed the court's orders.

**Summary of Bill:** Lotto prize winners may assign a portion of their remaining prize payments to a third party as well as all remaining payments.

In addition to the findings that a court must now make when approving an assignment of the right to receive prize payments, the court must find that the following has been disclosed to the prize winner: the payments being assigned by amount of payment and payment date; the purchase price or loan amount being paid; the interest or discount rate used to arrive at the present value of the prize; and the amount, if any, of origination or closing fees charged to the prize winner. The disclosure statement must also advise the prize winner that he or she should consult with and rely on independent legal or financial advice regarding federal tax consequences of the assignment.

Voluntary assignments will not be allowed if, at any time, the IRS or a court issues a determination letter, revenue ruling or other public ruling to any state lottery or lottery prize winner that the voluntary assignment will affect the federal tax treatment of prize winners who do not assign their prizes. The director of the Lottery must file a copy of the ruling with the secretary of state.

Assignments that were validly made before any ruling that ceases the authority for voluntary assignments remain valid and effective.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** This bill contains an emergency clause and takes effect immediately.

**Testimony For:** The parties are continuing to work toward language that would cease voluntary assignment in this state based either on an IRS ruling or court action that would impose accelerated tax liability on those who have not assigned their prizes. Twelve Lotto prize winners have obtained court orders to assign their prizes. The Lottery has taken the position that the Internal Revenue Service (IRS) has not adequately declared the protection intended by the law for those winners who do not assign their prizes. The assignment orders have been appealed. If the IRS determines that a market exists for the purchase of lottery prizes, the IRS may change the tax treatment of those non-assigning prize winners. Twelve states have enacted laws authorizing assignment of lottery prizes in some form. A limited number of companies purchase these prizes and a market may be developing nationally. On the other hand, a bill could be written in such a way that would remove the need for the court case to go forward and allow assignments to take place recognizing the need to protect non-assigning prize winners. Without a bill, there is the unknown future determinations by the IRS, and there is an appeal pending before the state Supreme Court, the outcome of which is also unknown. The parties desire to move forward.

**Testimony Against:** None.

**Testified:** Roger Wilson, Washington State Lottery Commission; Jim Boldt, Wood Bridge Financial Corporation; and Denny Elliason, Metropolitan Mortgage.