

Assembly Bill No. 218

Passed the Assembly July 21, 1995

Chief Clerk of the Assembly

Passed the Senate July 20, 1995

Secretary of the Senate

This bill was received by the Governor this ____ day
of _____, 1995, at ____ o'clock __M.

Private Secretary of the Governor

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CHAPTER ____

An act to add Section 708.750 to the Code of Civil Procedure, and to amend and repeal Section 8880.32 of, and to add Sections 8880.321, 8880.325, 8880.326, and 8880.327 to, the Government Code, relating to the state lottery, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 218, Richter. State lottery.

(1) The California State Lottery Act of 1984 provides, among other things, that during the life of a prizewinner, the right of the prizewinner to a prize shall not be assignable, except that payment of any prize may be paid to another person, paid to a person designated pursuant to an appropriate judicial order, or assigned as collateral for an obligation owed to another person, as specified.

This bill would specify that these provisions shall apply only to an assignment, including an assignment as collateral to secure a loan, that was executed by all parties on or before the operative date of this bill and that provides that all moneys are to be paid or disbursed to the prizewinner on or before December 1, 1995.

The bill would specify that these provisions governing assignments shall become inoperative on December 1, 1995, and as of January 1, 1996, would be repealed.

This bill would revise, recast, and reenact those provisions of existing law and, in addition, would permit the assignment of future payments to another person designated pursuant to an appropriate judicial order if the court determines, among other things, that the prizewinner was represented by legal counsel, that the prizewinner has reviewed and understands the terms of the assignment, and the specific prize payment assigned. The bill also would condition the assignment of any right to receive any prize payment on various specified terms, conditions, and rights that could not be waived or modified by the prizewinner.



In addition, the bill would establish a procedure for the enforcement of the lien of a judgment creditor against a lottery prize to be paid in annual installments, as specified.

(2) The California State Lottery Act of 1984, an initiative measure, specifies that none of its provisions may be changed except to further its purpose by a bill passed by a $\frac{2}{3}$ vote of each house of the Legislature and signed by the Governor.

This bill would declare that it furthers the purposes of the act and would require a $\frac{2}{3}$ vote.

(3) This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 708.750 is added to the Code of Civil Procedure, to read:

708.750. (a) Upon compliance with this section, the lien of a judgment creditor pursuant to this article is created against a lottery prize to be paid in annual installments and shall continue in force and effect until the judgment is paid or expires, whichever occurs first. For the lien to continue in effect, the judgment creditor shall do all of the following:

(1) Commencing with the second installment against which the judgment lien creditor asserts its lien, annually file with the lottery an affidavit stating that the judgment has not been satisfied and the amount of the remaining unsatisfied judgment, including interest and costs, if any. This affidavit shall be filed with the lottery not less than 45 days, nor more than 90 days, before the annual payment due date on the prize that is the subject of the judgment lien.

(2) If the judgment lien is renewed, file with the lottery a certified copy of the renewal application, as authorized in this code not less than 45 days, nor more than 90 days, before the annual payment due date on the prize that is the subject of the judgment lien, in order for the judgment lien to be effective in continuing the



existing judgment lien against the annual lottery prize payments.

(b) If the judgment lien creditor fails to file the annual statement, renewal of judgment, or renewal of abstract, the lien shall expire. Expiration of a lien for failure to comply with this section shall not preclude the judgment creditor from commencing a new procedure under this article to enforce the judgment, to the extent that the judgment otherwise continues to be enforceable under applicable law.

SEC. 2. Section 8880.32 of the Government Code is amended to read:

8880.32. The commission shall promulgate regulations to establish a system of verifying the validity of prizes and to effect payment of the prizes, provided:

(a) For convenience of the public, lottery game retailers may be authorized by the commission to pay winners of up to six hundred dollars (\$600) after performing validation procedures on their premises appropriate to the lottery game involved.

(b) No prize may be paid arising from tickets or shares that are stolen, counterfeit, altered, fraudulent, unissued, produced or issued in error, unreadable, not received or not recorded by the lottery by applicable deadlines, lacking in captions that confirm and agree with the lottery play symbols required by the lottery game involved, purchased by a minor, or not in compliance with additional specific rules and regulations and confidential validation and security tests appropriate to the particular lottery game. The lottery may pay a prize even though the actual winning ticket is not received by the lottery if the lottery validates the claim for the prize based upon substantial proof. “Substantial proof” means any evidence that would permit the lottery to use established validation procedures, as specified in lottery regulations, to validate the claim.

The commission may require that any form relating to a claim for a prize shall be signed under penalty of perjury. Any such declaration shall meet the



requirements of Section 2015.5 of the Code of Civil Procedure.

(c) No particular prize in any lottery game shall be paid more than once.

(d) The commission may specify that winners of less than twenty-five dollars (\$25) claim the prizes from either the same lottery game retailer from whom the ticket or share was purchased or from the lottery itself.

(e) Players shall have the right to claim prize money for 180 days after the drawing or the end of the lottery game or play in which the prize was won. The commission may define shorter time periods for eligibility for participation in, and entry into, drawings involving entries or finalists. If a valid claim is not made for a prize directly payable by the commission or for any on-line game prize within the period applicable for that prize, the unclaimed prize money shall revert to the benefit of the public purpose described in this chapter.

(f) After the expiration of the claim period for prizes for each lottery game, the commission shall make available a detailed tabulation of the total number of tickets or shares actually sold in a lottery game and the total number of prizes of each prize denomination that were actually claimed and paid directly by the commission.

(g) The right of any person to a prize shall not be assignable, except that the payment of any prize may be paid to another person, paid to a person designated pursuant to an appropriate judicial order, or assigned as collateral for an obligation owed to another person, as provided in this subdivision.

(1) During the life of a prizewinner, the right of the prizewinner to a prize shall not be assignable, except that payment of any prize may be made to a person designated pursuant to an appropriate judicial order, or pursuant to any of the following:

(A) An assignment, executed by the winner on a form approved by, and filed with, the commission during the winner's lifetime in accordance with regulations adopted by the commission, to a trust that by its terms is revocable



and that is established by the winner for the benefit of the winner as a beneficiary and governed by state law.

(B) An appropriate judicial order appointing a conservator or guardian for the protection of the winner or for adjudicating rights to, or ownership of, the prize.

(C) An assignment as collateral to a person to secure a loan pursuant to Division 9 (commencing with Section 9101) of the Commercial Code. The assignment as collateral of the right to receive payment of a prize shall be subject to all of the following:

(i) All security agreements, rights of the prizewinner, and rights of the secured creditor shall be determined pursuant to state law.

(ii) In the event of a default under the loan or security agreement, the secured creditor's rights shall be limited to receiving the regular payments made by the lottery on the prizewinner's interest until the obligation is paid in full or the prize has been paid in full, whichever occurs first. Notwithstanding Division 9 (commencing with Section 9101) of the Commercial Code, the secured creditor shall not have the right to sell or assign the prizewinner's rights to payments to itself or to any other person. This section shall not limit the secured creditor's right to sell, assign, or transfer the obligation of the debtor and related security interest to a third party.

(iii) The prizewinner and secured creditor may agree and jointly instruct the lottery to have all prizewinning payments deposited directly into an account maintained by the prizewinner at a federally insured bank located within the state. This account may be subject to the secured creditor's lien. Upon receipt of these instructions, the lottery shall continue to deposit all payments due the prizewinner into the account until the lottery receives notification from the secured creditor and prizewinner that the payments are to be made at an account maintained at another bank or that the secured creditor releases or terminates the security interest in the prizewinner's payments.

(iv) For purposes of perfecting the security interest of the secured creditor, the right of the prizewinner to



receive payments is deemed to be a contract right that is perfected by the filing of a financing statement with the Secretary of State.

(v) A copy of the security agreement, an endorsed copy of the financing statement and the joint instructions to deposit the prizewinner's payments directly into a bank account, if any, shall be filed with the lottery. Notwithstanding the security interest granted a creditor, all payments shall be made payable to the prizewinner and the payments shall be sent directly to the prizewinner, except as follows:

(aa) The prizewinner's payments shall be sent directly to the bank designated pursuant to clause (iii).

(bb) The prizewinner's payments shall be sent directly to the secured creditor pursuant to an order of a court of competent jurisdiction, directing the lottery to make the payments directly to the secured creditor.

(vi) Upon the termination or release of the security interest, the secured creditor shall file an endorsed copy of the release or termination of the security interest with the lottery.

(vii) Prior to assignment of any prize as collateral to secure a loan pursuant to this subdivision, the Controller shall determine whether the prizewinner owes any obligation that is subject to offset under Article 2 (commencing with Section 12410) of Chapter 5 of Part 2 of Division 3 of Title 2 of the Government Code and shall provide notification of his or her determination to the commission and to the Secretary of State.

Notwithstanding any other provision of law, a prizewinner, by the act of entering into an agreement to assign any prize as collateral to secure a loan, is deemed to have waived any statutory period of limitations that otherwise would bar collection by the state of annual prize payments due after expiration of the term of the secured loan for obligations that accrue subsequent to the assignment of the prize as collateral. Any loan secured by the assignment of a lottery prize shall not apply to the last three annual prize payments from the lottery to the



prizewinner and the loan shall not exceed a term of 15 years.

(viii) Any loans made to a prizewinner pursuant to this subdivision shall be exempt from the usury provisions of Article XV of the California Constitution with respect to an assignment of a lottery prize as collateral to secure a loan.

(2) Upon the death of the prizewinner, the winner's prize may be paid by any of the following methods:

(A) To the trustee of a trust established pursuant to subparagraph (A) of paragraph (1), or, if the trust has been terminated, to those beneficiaries entitled to distribution thereunder.

(B) To one or more beneficiaries designated on a form approved by the commission for that purpose, executed by the winner, filed with the commission in accordance with regulations adopted by the commission to govern those designations, and in effect upon the winner's death.

(C) In the absence of an assignment to a trust or a beneficiary designation, the winner's prize may be paid as follows:

(i) To the personal representative of the testate or intestate estate of a deceased prizewinner upon receipt by the commission of a court order and letters appointing an executor, administrator, or other personal representative of the estate of the deceased prizewinner, or pursuant to a final order of distribution.

(ii) As provided under Part 1 (commencing with Section 13000) and Part 2 (commencing with Section 13500) of Division 8 of the Probate Code.

(iii) To a person or persons designated under an appropriate judicial order adjudicating rights to the ownership of the prize.

(3) The commission may establish a reasonable fee for any expenses incurred in order to comply with this subdivision. The fee shall be deducted from the prize moneys paid pursuant to this subdivision.

(4) Upon payment of prize moneys pursuant to this subdivision, the director, the commission, and employees of the lottery and the state shall be discharged of any and



all liability for the prize paid, and they shall have no duty or obligation to any person asserting another interest in, or right to receive, the prize payment.

(5) The commission shall adopt regulations necessary to implement this subdivision allowing for a limited right of prizewinners to assign their rights to prize payments and setting the reasonable fee for expenses to be recovered by the lottery. The regulations shall be consistent with and shall further the Legislature's intent that prizewinners who wish to do so should be afforded an opportunity to enjoy more of their winnings currently, as provided by Section 1 of Chapter 890 of the Statutes of 1994. If the commission deems it necessary, the regulations may require, as a condition to a voluntary assignment pursuant to an appropriate judicial order, that the assignor be represented by independent legal counsel and receive independent financial and tax advice concerning the effect of the assignment.

(h) A ticket or share shall not be purchased by, and a prize shall not be paid to, a member of the commission, any officer or employee of the commission, any officer or employee of the Controller who is designated in writing by the Controller as having possible access to confidential lottery information, programs, or systems, or any spouse, child, brother, sister, or parent of that person who resides within the same household of the person. Any person who knowingly sells or purchases a ticket or share in violation of this section, or who knowingly claims or attempts to claim a prize with a ticket or share that was purchased or sold in violation of this section, is guilty of a misdemeanor.

(i) No prize shall be paid to any person under the age of 18 years. Any person who knowingly claims or attempts to claim a prize with a ticket or share purchased by a person under the age of 18 years is guilty of a misdemeanor.

(j) This section shall apply only to an assignment, including an assignment as collateral to secure a loan, that was executed by all parties on or before the effective date of the act which added this subdivision during the 1995-96 Regular Session, and that provides that all moneys are to



be paid or disbursed to the prizewinner on or before December 1, 1995.

(k) This section shall become inoperative on December 1, 1995, and as of January 1, 1996, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 1996, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2.5. Section 8880.321 is added to the Government Code, to read:

8880.321. The commission shall promulgate regulations to establish a system of verifying the validity of prizes and to effect payment of the prizes, provided that:

(a) For convenience of the public, lottery game retailers may be authorized by the commission to pay winners of up to six hundred dollars (\$600) after performing validation procedures on their premises appropriate to the lottery game involved.

(b) No prize may be paid arising from tickets or shares that are stolen, counterfeit, altered, fraudulent, unissued, produced or issued in error, unreadable, not received or not recorded by the lottery by applicable deadlines, lacking in captions that confirm and agree with the lottery play symbols required by the lottery game involved, purchased by a minor, or not in compliance with additional specific rules and regulations and confidential validation and security tests appropriate to the particular lottery game. The lottery may pay a prize even though the actual winning ticket is not received by the lottery if the lottery validates the claim for the prize based upon substantial proof. "Substantial proof" means any evidence that would permit the lottery to use established validation procedures, as specified in lottery regulations, to validate the claim.

The commission may require that any form relating to a claim for a prize shall be signed under penalty of perjury. This declaration shall meet the requirements of Section 2015.5 of the Code of Civil Procedure.

(c) No particular prize in any lottery game shall be paid more than once.



(d) The commission may specify that winners of less than twenty-five dollars (\$25) claim the prizes from either the same lottery game retailer from whom the ticket or share was purchased or from the lottery itself.

(e) Players shall have the right to claim prize money for 180 days after the drawing or the end of the lottery game or play in which the prize was won. The commission may define shorter time periods for eligibility for participation in, and entry into, drawings involving entries or finalists. If a valid claim is not made for a prize directly payable by the commission or for any on-line game prize within the period applicable for that prize, the unclaimed prize money shall revert to the benefit of the public purpose described in this chapter.

(f) After the expiration of the claim period for prizes for each lottery game, the commission shall make available a detailed tabulation of the total number of tickets or shares actually sold in a lottery game and the total number of prizes of each prize denomination that were actually claimed and paid directly by the commission.

(g) A ticket or share shall not be purchased by, and a prize shall not be paid to, a member of the commission, any officer or employee of the commission, any officer or employee of the Controller who is designated in writing by the Controller as having possible access to confidential lottery information, programs, or systems, or any spouse, child, brother, sister, or parent of that person who resides within the same household of the person. Any person who knowingly sells or purchases a ticket or share in violation of this section, or who knowingly claims or attempts to claim a prize with a ticket or share that was purchased or sold in violation of this section, is guilty of a misdemeanor.

(h) No prize shall be paid to any person under the age of 18 years. Any person who knowingly claims or attempts to claim a prize with a ticket or share purchased by a person under the age of 18 years is guilty of a misdemeanor.

SEC. 3. Section 8880.325 is added to the Government Code, to read:



8880.325. The right of any person to a prize shall not be assignable, except that the payment of any prize may be assigned, in whole or in part, as provided by Section 8880.326 and this section under any of the following circumstances:

(a) An assignment executed by the prizewinner on a form approved by, and filed with, the commission during the prizewinner's lifetime in accordance with regulations adopted by the commission, to a trust that by its terms is revocable and that is established by the prizewinner for the benefit of the prizewinner as a beneficiary and governed by the laws of the state.

(b) An appropriate judicial order appointing a conservator or a guardian for the protection of the prizewinner or for adjudicating rights to, or ownership of, the prize.

(c) An assignment, as collateral, to a person to secure a loan pursuant to Division 9 (commencing with Section 9101) of the Commercial Code. The assignment as collateral of the right to receive payment of a prize shall be subject to all of the following:

(1) All security agreements, rights of the prizewinner, and rights of the secured creditor shall be determined pursuant to the laws of the state.

(2) In the event of a default under the loan or security agreement, the secured creditor's rights shall be limited to receiving the regular payments made by the lottery, based on the prizewinner's right to receive a regular prize payment until the obligation has been paid in full or the prize has been paid in full, whichever occurs first. Notwithstanding Division 9 (commencing with Section 9101) of the Commercial Code, the secured creditor shall not have the right to sell or assign the prizewinner's rights to payments to itself or to any other person. This section shall not limit the secured creditor's right to sell, assign, or transfer the obligation of the debtor and related security interest to a third party.

(3) The prizewinner and secured creditor may agree, and may jointly instruct the lottery, to directly deposit all prizewinning payments into an account maintained by



the prizewinner at a federally insured financial institution located within the state. This account may be subject to the secured creditor's lien. Upon receipt of these instructions, the lottery shall continue to deposit all payments due the prizewinner into the account until the lottery receives notification from both the secured creditor and the prizewinner that the payments are to be made to an account maintained at another bank or that the secured creditor releases or terminates the security interest in the prizewinner's payments.

(4) (A) The prizewinner, pursuant to an order of the court obtained in compliance with subdivision (d), may direct the lottery to make the prize payments, in whole or in part, directly to the secured creditor. A direction to the lottery to make a prize payment to a secured creditor shall not, in itself, constitute an assignment of the prize payment to the secured creditor.

(B) For purposes of this paragraph and subdivision (d), "assignee" and "secured creditor" are synonymous, and "assignment" or "prize payment" means the payment that is directed to be paid to the secured creditor.

(5) For purposes of perfecting the security interest of the secured creditor, the right of the prizewinner to receive payments is deemed to be a contract right that is perfected by the filing of a financing statement with the office of the Secretary of State.

(6) A copy of the security agreement, an endorsed copy of the financing statement, and the joint instruction to deposit the prizewinner's payments directly into an account, if any, at the financial institution shall be filed with the lottery. Notwithstanding the security interest granted a creditor, all lottery payments shall be made payable directly to the prizewinner, except as follows:

(A) Payments sent directly to the financial institution designated pursuant to paragraph (3).

(B) In the event of a default under the security agreement or obligation it secures, payments sent directly to the secured creditor pursuant to an order of a



court of competent jurisdiction determining that the payments are to be made directly to the secured creditor.

(7) Upon the termination or release of the security interest, the secured creditor shall file an endorsed copy of the release or termination of the security interest with the lottery.

(d) Except as provided in subdivision (j), an assignment of future payments to another person designated pursuant to an appropriate judicial order of a California superior court or a federal court having jurisdiction over property located within California, if the court determines and states in its order all of the following:

(1) That the prizewinner was represented by independent legal counsel whose name and State Bar of California number appears as counsel of record on all pleadings filed in any and all court proceedings. The prizewinner's legal counsel shall appear as counsel of record at any proceedings that are required by the court.

(2) That the prizewinner has represented to the court either by sworn testimony if a personal appearance is required by the court, or by written declaration filed with the court under penalty of perjury, and that the court has determined these representations to be true and correct, that the prizewinner (A) has reviewed and understands the terms and effects of the assignment, (B) understands that he or she will not receive the prize payments or portions thereof for the years assigned, (C) has entered into the agreement of his or her own free will without undue influence or duress and not under the influence of drugs or alcohol, (D) has had an opportunity to retain independent financial and tax advice, and (E) has been represented by independent legal counsel, who has advised the prizewinner of his or her legal rights and obligations under the assignment.

(3) It shall be the responsibility of the prizewinner to bring to the attention of the court, either by sworn testimony or by written declaration submitted under penalty of perjury, the existence or nonexistence of a current spouse. If married, the prizewinner shall identify



his or her spouse and submit to the court a signed and notarized statement wherein the spouse consents to the assignment. If the prizewinner is married and the notarized statement is not presented to the court, the court shall determine, to the extent necessary and as appropriate under applicable law, the ability of the prizewinner to make the proposed assignment without the spouse's consent.

(4) The specific prize payment or payments assigned, or any portion thereof, including the dates and amounts of the payments to be assigned, the years in which each payment is to begin and end, the gross amount of the annual payments assigned before taxes, the prizewinner's name as it appears on the lottery claim form, the full legal name of the assignor if different than the prizewinner's name as it appears on the lottery claim form, the assignor's social security or tax identification number, the assignee's full legal name and social security or tax identification number, and, if applicable, the citizenship or resident alien number of the assignee if a natural person.

(5) Expressly identifies the amount, the date if available, any nonspouse coowner, claimant, or lienholder, and the interests, liens, security interests, assignments, or offsets asserted by the state or other persons against any of the prize payments including, but not limited to, those payments that are the subject of the proposed assignment as those interests, liens, security interests, assignments, or offsets have been represented to the court by the prizewinner in a written declaration signed under penalty of perjury and filed with the court.

(6) That the lottery and the State of California are not parties to the proceeding and that the lottery and the state may rely upon the order in disbursing the prize payments that are the subject of the order. Further, that upon payment of prize moneys pursuant to an order of the court, the lottery, the director, the commission, and the employees of the lottery and the state shall be discharged of any and all liability for the prize paid, and these persons and entities shall have no duty or obligation



to any person asserting another interest in, or right to receive, the prize payment.

(7) That the prizewinner or the proposed assignee has obtained and filed with the court a notification from the lottery of any liens, levies, or claims, and the Controller's office of any offsets asserted as of that time against the prizewinner, as reflected in their respective official records as of the time of the notification. The date of the notification shall not be more than 20 days prior to the court hearing, unless extended by the court.

(e) The assignment of the right to receive any prize payment or payments by the prizewinner pursuant to subdivision (d) shall be conditioned on the following terms, conditions, and rights, which may not be waived or modified by the prizewinner:

(1) The payment of moneys to, or on behalf of, the prizewinner by the assignee in consideration for the assignment of the prize payment or payments shall be made in full prior to the time when, under the terms of the assignment, the lottery is required to make the first prize payment to the assignee, or may be made in two installments, the first being paid prior to the time when, under the terms of the assignment, the lottery is required to make the first prize payment to the assignee and the second installment within 11 months thereafter. The second installment shall not be in an amount that exceeds the first installment.

(2) If the prizewinner elects to accept the consideration to be paid for the assignment in two installments as provided in paragraph (1), the prizewinner shall have a special lien for the balance of any payment due, effective without any further action, agreement, or notice, on any of the prize payments assigned by the prizewinner for the payment of moneys from the assignee. This lien shall terminate upon the prizewinner receiving actual payment of the moneys. The tendering of a check, payment instrument, or recital of payment shall not constitute actual payment of moneys for the purposes of this paragraph.



(3) The Legislature finds and declares that the creation of a statutory lien in favor of a prizewinner is necessary to protect the rights of the prizewinner from any creditors, subsequent bankruptcy trustees of the assignee, or from any subsequent assignees when the prizewinner has not received full payment for the assigned prize payments.

(f) Prior to the assignment of any prize as provided in subdivisions (c) and (d), the Controller shall determine whether the prizewinner owes any obligation that is subject to offset under Article 2 (commencing with Section 12410) of Chapter 5 of Part 2 of Division 3 and shall provide written notification of that determination to the lottery and to the Secretary of State.

(g) If the lottery determines that the court order issued pursuant to subdivision (d) is complete and correct in all respects, the lottery shall send the prizewinner and the assignee or assignees written confirmation of receipt of the court-ordered assignment and of the lottery's intention to rely thereon in making future payments to the assignee or assignees named in the court order.

(h) Notwithstanding any other provision of law, by entering into an agreement to assign any prize payments pursuant to subdivision (c) or (d), a prizewinner shall be deemed to have waived any statutory period of limitation as to the State of California enforcing any rights against annual prize payments due after the last assigned payment is paid or released, if assigned as collateral, from the lien granted the secured creditor. No assignment of prize payments pursuant to either subdivision (c) or (d) shall be valid or allowed for the final three annual prize payments from the lottery to the prizewinner.

(i) Any loans made to a prizewinner pursuant to this section shall be exempt from the usury provisions of Article XV of the California Constitution with respect to an assignment of a lottery prize as collateral to secure a loan.

(j) (1) Notwithstanding any other provision of this section, no prizewinner shall have the right to assign prize payments pursuant to subdivision (d) or direct the



payment of a prize pursuant to paragraph (4) of subdivision (c) if any of the following occurs:

(A) The issuance by the United States Internal Revenue Service (IRS) of a technical rule letter, revenue ruling, or other public ruling of the IRS in which the IRS determines that, based upon the right of assignment provided in subdivision (d), a California lottery prizewinner who does not assign any prize payments pursuant to subdivision (d) would be subject to an immediate income tax liability for the value of the entire prize rather than annual income tax liability for each installment when paid.

(B) The issuance by a court of competent jurisdiction of a published decision holding that, based upon the right of assignment provided in subdivision (d), a California lottery prizewinner who does not assign any prize payments pursuant to subdivision (d) would be subject to an immediate income tax liability for the value of the entire prize rather than annual income tax liability for each installment when paid.

(2) Upon receipt of a letter or ruling from the IRS or a published decision of a court of competent jurisdiction, as specified in paragraph (1), the director shall immediately file a copy of that letter, ruling, or published decision with the Secretary of State.

Immediately upon the filing by the director of a letter, ruling, or published decision with the Secretary of State, a prizewinner shall be ineligible to assign a prize pursuant to subdivision (d) or direct the payment of a prize pursuant to paragraph (4) of subdivision (c).

SEC. 4. Section 8880.326 is added to the Government Code, to read:

8880.326. Upon the death of the prizewinner, the prize may be paid by any of the following methods:

(a) To the trustee of a trust established pursuant to subdivision (a) of Section 8880.325, or, if the trust has been terminated, to those beneficiaries entitled to distribution under Section 8880.325.

(b) To one or more beneficiaries designated on a form approved by the commission for that purpose, executed



by the prizewinner, filed with the commission in accordance with regulations adopted by the commission to govern those designations, and in effect upon the prizewinner's death.

(c) In the absence of an assignment to a trust or a beneficiary designation, the prizewinner's prize may be paid, as follows:

(1) To the personal representative of the testate or intestate estate of a deceased prizewinner upon receipt by the commission of a court order and letters appointing an executor, administrator, or other personal representative of the estate of the deceased prizewinner, or pursuant to a final order of distribution.

(2) As provided under Part 1 (commencing with Section 13000) or Part 2 (commencing with Section 13500) of Division 8 of the Probate Code.

(3) To a person or persons designated under an appropriate judicial order adjudicating rights to the ownership of the prize.

SEC. 5. Section 8880.327 is added to the Government Code, to read:

8880.327. For any assignments, transfers, or security interests provided for in Sections 8880.325 and 8880.326, the following shall apply:

(a) The commission may establish a reasonable fee for all expenses incurred in order to comply with Section 8880.325 or 8880.326 relating to an authorized assignment, transfer, or security interest. The fee may be deducted from the prize moneys paid by the lottery pursuant to Section 8880.325 or 8880.326.

(b) Upon the payment of prize moneys pursuant to Section 8880.325 or 8880.326 or an order of a court, the lottery, the director, the commission, and the employees of the lottery and the state shall be discharged of any and all liability for the prize paid, and they shall have no duty or obligation to any persons asserting another interest in, or right to receive, the prize payment.

(c) The commission shall adopt regulations necessary to implement Section 8880.325 or 8880.326 allowing for a limited right of prizewinners to assign their rights to prize



payments and setting the reasonable fee for expenses to be recovered by the lottery. The regulations shall be consistent with and shall further the Legislature's intent that prizewinners who wish to do so should be afforded the opportunity to currently enjoy more of their winnings as provided by Section 1 of Chapter 890 of the Statutes of 1994. If the commission deems it necessary, the regulations may require, as a condition to any voluntary assignment pursuant to subdivision (d) of Section 8880.325, that the prizewinner be represented by independent legal counsel and receive independent financial and tax advice concerning the effect of the assignment.

SEC. 6. The Legislature finds and declares that this act furthers the purposes of the California State Lottery Act of 1984.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to correctly implement Chapter 890 of the Statutes of 1994 and to provide additional consumer protection at the earliest possible time, it is necessary that this act take effect immediately.



Approved _____, 1995

Governor

