

BILL ANALYSIS

Senate Research Center
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S.B. 626
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas Lottery Act (Act) requires mandatory deduction from the prize winnings of a person for certain delinquent amounts owed to the state. Examples of such delinquencies include tax or other money owed to the comptroller of public accounts, the Texas Workforce Commission, or the Texas Alcoholic Beverage Commission. A mandatory deduction from prize winnings is also required for delinquent child support payments administered or collected by the attorney general.

The Act also allows prize winners who receive installment payments to assign future installments, except that any prize payments due within the final two years of the payment schedule may not be assigned. This provision allows the Texas Lottery Commission (commission) to determine if there are delinquent payments owed to the state and to collect on those payments prior to the payout of the final two years of prize winnings. However, recent court decisions have held that, based on a separate provision of the Uniform Commercial Code, a lottery prize winner does have the right to assign the final two years of prize payments.

This inconsistency in existing law has resulted in numerous lawsuits costing the commission and the Office of the Attorney General time and resources to defend. S.B. 626 resolves the inconsistencies in language between the Act and the Uniform Commercial Code and provides a clear statement of policy regarding the ability to assign prize payments.

As proposed, S.B. 626 amends current law relating to lottery winnings, including assignment of winnings, periodic payments of winnings, and the deduction of child support delinquency amounts from winnings.

RULEMAKING AUTHORITY

Rulemaking authority previously granted to the Texas Lottery Commission is rescinded in SECTION 4 (Section 466.4075, as added by Chapter 135 (H.B. 566), Acts of the 75th Legislature, Regular Session, 1997, Government Code) of this bill.

Rulemaking authority previously granted to the Texas Lottery Commission is modified in SECTION 1 (Section 466.407, Government Code) and in SECTION 2 (466.4075, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 466.407, Government Code, as follows:

Sec. 466.407. DEDUCTIONS FROM PRIZES. (a) Requires the executive director of the Texas Lottery Commission (commission; executive director) to deduct the amount of a delinquent tax or other money from the winnings of a person who has been finally determined to be:

(1) delinquent in the payment of tax or other money collected by the comptroller of public accounts (comptroller), the Texas Workforce Commission (TWC), or the Texas Alcoholic Beverage Commission (TABC); or

(2) delinquent in reimbursing the Health and Human Services Commission (HHSC), rather than the Texas Department of Human Services, for a benefit granted in error under the food stamp program or the program of financial assistance under Chapter 31 (Financial Assistance and Service Programs), Human Resources Code.

(3) in default on a loan made under Chapter 52 (Student Loan Program), Education Code;

(4) in default on a loan guaranteed under Chapter 57 (Guaranteed Student Loans), Education Code.

Deletes existing text requiring deductions from the winnings of a person who has been finally determined to be delinquent in making child support payments administered or collected by the attorney general. Makes nonsubstantive changes.

(a-1) Requires the executive director to deduct delinquent child support payments from the winnings of a person in the amount of the delinquency as determined by a court or a Title IV-D agency under Chapter 231 (Title IV-D Services), Family Code.

(b) Requires the director of the lottery division established by the commission under Chapter 467 (director), to pay the balance to a person if the person's winnings exceed the amount of a delinquency under Subsection (a) or (a-1). Requires the director to transfer the amount deducted to the appropriate agency or to the state disbursement unit under Chapter 234 (State Case Registry, Disbursement Unit, and Directory of New Hires), Family Code, as applicable.

(c) Requires the comptroller, TWC, TABC, HHSC, Texas Higher Education Coordinating Board, and Texas Guaranteed Student Loan Corporation to each provide the executive director with a report of persons who have been finally determined to be delinquent in the payment of a tax or other money collected by the agency. Requires the Title IV-D agency (the office of the Attorney General) under Chapter 231, Family Code, to provide the executive director with a report of persons who have been determined to be delinquent in the payment of child support obligations. Requires the commission to adopt rules regarding the form and frequency of reports under this subsection. Makes a conforming change. Deletes existing text including the attorney general in the list of those providing a report of persons determined delinquent in the payment of a tax or other money collected by the commission.

SECTION 2. Amends Section 466.4075, Government Code, as added by Chapter 1104 (H.B. 2424), Acts of the 75th Legislature, Regular Session, 1997, as follows:

Sec. 466.4075. DEDUCTIONS OF CHILD SUPPORT FROM CERTAIN LOTTERY WINNINGS. (a) Provides that this section applies only to a prize that is awarded by the director under Section 466.402(b) (relating to prizes that may be paid under judicial order), including a prize required to be paid in periodic installments, rather than this section applies only to a prize that is required to be paid in periodic installments and is awarded by the director under Section 466.402(b).

(b) Requires the executive director to deduct from winnings, in the event of a lump-sum payment, an amount for delinquent child support owed by the prizewinner if the executive director has been provided with a certified copy of a court order or a writ of withholding issued under Chapter 158 (Withholding From Earnings for Child Support), Family Code, or notice of a child support lien created under Subchapter G (Child Support Lien), Chapter 157 (Enforcement), Family Code.

(c) Creates this subsection from existing text. Requires the executive director, if the prize is required to be paid in periodic installments, to deduct from periodic installment winnings paid to or on behalf of a prizewinner amounts owed by the winner for child support, rather than to deduct an amount a court has ordered a person to pay as child support from a person's periodic installment winnings, if the executive director has been provided with a certified copy of a court order or a writ of withholding issued under Chapter 158, Family Code, or notice of a child support lien created under Subchapter G, Chapter 157, Family Code. Makes a nonsubstantive change.

(d) Redesignates existing Subsection (c) as Subsection (d). Requires the court order, writ of withholding, or notice of a child support lien provided under Subsection (c), to direct child support to be paid in the manner in which the periodic installment prize is paid. Makes no further changes to this subsection.

(e) Redesignates existing Subsection (d) as Subsection (e). Requires the executive director, if a person's winnings exceed the amount deducted under Subsection (b) or (c) and Section 466.407 or any other section of this chapter allowing a deduction from the winnings of a lottery winner, to pay the balance to the person. Requires the executive director to transfer the money deducted under Subsection (b) or (c) to the appropriate person, the clerk of the court that issued the order for placement in the registry of the court, or the state disbursement unit under Chapter 234, Family Code, as appropriate.

(f) Redesignates existing Subsection (e) as Subsection (f). Requires the commission to adopt rules necessary to administer this section, including rules that:

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

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

Makes a nonsubstantive change.

(g) Provides that Section 9.406 (Discharge of Account Debtor: Notification of Assignment; Identification and Proof of Assignment; Restrictions on Assignment of Accounts, Chattel Paper, Payment Intangibles, and Promissory Notes Ineffective), Business & Commerce Code, does not apply to periodic payments of lottery winnings under this section.

SECTION 3. Amends Section 466.410, Government Code, by amending Subsections (a), (b), and (e) and adding Subsection (k) as follows:

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

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

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

(b) Requires a district court to issue an order approving a voluntary assignment and directing the commission to direct prize payments in whole or in part to the assignee if certain conditions are met, including the assignor provides a sworn and notarized affidavit making certain statements, including that the assignor is not delinquent in payment of child support under a court or administrative order issued in this state or another state. Makes nonsubstantive changes.

(e) Deletes existing text requiring the court order to specify the assignor's social security or tax identification number, and, if applicable, the citizenship or resident alien number of the assignee of an individual.

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

SECTION 4. Repealer: Section 466.4075 (Deduction of Child Support from Certain Lottery Winnings), as added by Chapter 135 (H.B. 566), Acts of the 75th Legislature, Regular Session, 1997, Government Code.

SECTION 5. Effective date: September 1, 2011.