

**REPORT OF THE
VIRGINIA LOTTERY**

**Borrowing and Assignment
Activity by Virginia Lottery
Winners Following Enactment
of House Bill 1564 (2003)**

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



HOUSE DOCUMENT NO. 44

**COMMONWEALTH OF VIRGINIA
RICHMOND
2005**



VIRGINIA LOTTERY.

November 30, 2004

Mark R. Warner
Governor

Senator John H. Chichester
Post Office Box 904
Fredericksburg, Virginia 22404

Penelope W. Kyle
Executive
Director

Delegate Harry J. Parrish
9009 Center Street
Manassas, Virginia 20110

Dear Senator Chichester and Delegate Parrish:

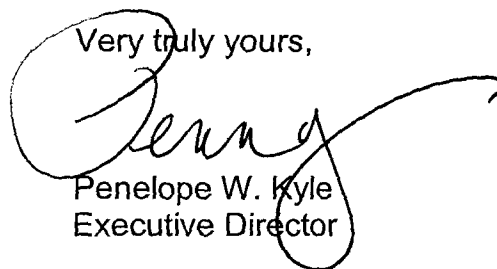
I am pleased to provide each of you with the Virginia Lottery's report on "Borrowing and Assignment Activity by Virginia Lottery Winners Following Enactment of House Bill 1564 (2003)". This report is being submitted pursuant to direction to the Virginia Lottery contained in the Second Enactment Clause of HB 1564 (2003), which requires that the Virginia Lottery advise the House and Senate Finance Committees regarding borrowing and assignment activity by Lottery winners in accordance with the provisions of the bill.

900 East
Main Street

I trust this report will provide the information the Committees seek. Please contact me if you have any questions.

Richmond,
Virginia
23219

Very truly yours,



Penelope W. Kyle
Executive Director

PWK/bkh
Enclosures

(804)692-7000

cc: Elizabeth B. Daley, Staff Director, Senate Finance Committee
E. M. Miller, Jr., Director, Division of Legislative Services

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www.valottery.com

BORROWING AND ASSIGNMENT ACTIVITY
BY VIRGINIA LOTTERY WINNERS FOLLOWING
ENACTMENT OF HOUSE BILL 1564 (2003)

**Report by the Virginia Lottery to
The Finance Committees of the
House of Delegates and the Senate**

November 30, 2004

Executive Summary

During the 2003 session of the Virginia General Assembly, legislation (HB 1564, Delegate Vincent F. Callahan, Jr., Chief Patron) was enacted which substantially expanded the circumstances under which a winner of a lottery prize payable in installments over a period of time could assign his rights to that prize or pledge the anticipated prize payment stream as collateral for a loan.

Prior to enactment of HB 1564 (Chapter 924, 2003 Acts of Assembly, included with this report as Attachment 1), the right to a lottery prize was not assignable except under specified circumstances. *Va. Code § 58.1-4013*, see Attachment 1. Generally, those circumstances were limited to assignments necessitated by the death, divorce or child support obligations of the winner. Otherwise, the winner of a lottery prize payable over a period of time was bound by the election he made at the time he claimed the prize – either installment payments over a period of time determined by the Lottery or an immediate lump sum payment from the Lottery, discounted to present day value.

House Bill 1564 amended *Va. Code § 58.1-4013* and added a new provision, *Va. Code § 58.1-4020.1*. The effect of those changes is to allow, upon performance of several enumerated pre-conditions, the assignment of lottery payments due over a period of time or the pledging of those payments as collateral for a loan. The legislation does not limit the purpose of, or reason for, an assignment or pledge as collateral.

The Virginia Lottery has established procedures by which entities wishing to be the assignee of prize winnings or the lender of loans for which prize winnings will act as collateral, may be registered to do so. See *Va. Code § 58.1-4020.1E*. In addition, as permitted by the statute, the Lottery has also determined an appropriated fee structure for both the registration of assignees or lenders and the cost of processing assignments.

To date, five (5) companies are registered with the Virginia Lottery and approved to receive assignments and twenty-one (21) Lottery prize winners have assigned all or a portion of their remaining winnings. As of the date of this report, the Lottery has not been advised that any winner has sought to pledge his future payments as collateral for a loan.

Based upon the Lottery's experience in reviewing and processing the assignments, several clarifications were recommended to the General Assembly during the 2004 session and were contained in House Bill 1027 offered by Chief Patron Delegate David B. Albo. In addition, the courts by which these cases are heard have offered two recommendations for consideration by the General Assembly:

1. Amend the language in § 58.1-4020.1 A relating to the necessity of the hearing on a petition for assignment to clarify that in those cases where all statutory requirements have been met and the Virginia Lottery indicates no objection, the Order for assignment may be entered without a court appearance; and
2. Clarify within the statute that a subsequent reassignment of the lottery winnings by the original assignee to another entity is not subject to the approval requirements of the statute.

Introduction and Background

In 1987, the Virginia General Assembly passed House Bill 950 creating a Lottery in the Commonwealth of Virginia. 1987 Acts of Assembly, Ch. 531. The first game was offered to the public in September 1988. Initially, all games were so called "scratcher" or instant games and prize winners received full payment upon presentation of a valid ticket. In May 1989, the first daily online game, "Pick 3," was introduced.

As the Lottery grew, a wider variety of products was offered to the public. On occasion, the Lottery has offered scratcher products which awarded prizes payable over a period of time, such as "Win for Life" games or games which paid a specific prize amount on a yearly basis for a set number of years. (Prizes won in a "Win for Life Game" may not be assigned or pledged as collateral for a loan due to the difficulty of assuring that the Lottery will be aware of a prizewinner's death when the payments or being made to another party. *Va. Code § 58.1-4020.1 A.*) In 1990, the Virginia Lottery began offering on-line, jackpot games with top prizes determined by the amount of revenue realized through purchase of tickets for the game. Since then, the Virginia Lottery has joined with other states for several multi-state jackpot games. The jackpot games include past or current games such as Lotto, The Big Game, Lotto Virginia, Mega Millions, and Lotto South. The top prize in the jackpot games is typically payable

over a period of years and is financed at the time the prize winner presents a valid claim through purchase of United States treasury bonds to fund annuity payments.

Originally, the Virginia Lottery offered no cash option as an alternative to the annuitized payments over time. In addition, pursuant to *Virginia Code § 58.1-4013*, a provision of the original Lottery legislation, prizes payable over time were not assignable, except in limited circumstances. Those circumstances have generally been understood to include settlement of descendant's estates, division of property pursuant to a divorce, satisfaction of a child support obligation, or in at least one instance, payment of attorney's fees in a case in which the proper recipient of a Lottery jackpot prize was at issue. *See Hughes v. Cole 251 Va. 3, 456 S.E.2d 820 (1996)*.

In September 1997, the Virginia Lottery began offering jackpot prize winners a cash option in lieu of the annual annuitized payments. The cash option, which was in the form of a lump sum amount discounted to present day value of the payments otherwise made over time, was offered to follow suit with other state lotteries that offered similar options. In 1999, the Internal Revenue Service also allowed a window of opportunity by which previous jackpot prize winners could convert their remaining annuitized payments to a one-time lump sum payment. Virginia offered this option from October 1999 to December 2000

In 2003, House Bill 1564, offered by Delegate Vincent F. Callahan, Jr., Chief Patron, was enacted. Under HB 1564, *Virginia Code § 58.1-4013* was amended and a new provision, *Virginia Code § 58.1-4020.1*, was added. Pursuant to those changes, winners of lottery prizes payable over time are now permitted to assign those lottery winnings or pledge them as collateral for a loan. Such an assignment or pledge requires that certain pre-conditions be met. Those requirements include the following:

1. Any person or entity wishing to receive assignments of Lottery winnings or make loans which will be secured by a pledge of lottery winnings as collateral must do so by written contract.
2. The contract must affirm that the requirements of the statute have been met and be endorsed by a written Order of a court of competent jurisdiction after a hearing.
3. The Order must specify the name, address and social security number or tax identification number of the assignee or lender.
4. The payments to be assigned or pledged as collateral must be specifically described by date and gross pre-tax amount.

5. The rate charged for any such assignment or loan may not exceed fifteen percent (15%).
6. The contract must contain the provisions specified by the statute, including statements that: the agreement is voluntary; that the assignor or borrower is of sound mind and not acting under duress; that the assignor or borrower has been advised in writing by the assignee or lender to seek independent legal counsel and independent financial counseling; that the assignor or borrower understands that he is relinquishing or limiting his right to receive Lottery payments; and that the assignor or borrower has received from the Virginia Lottery confirmation of the assignee's or lender's registration with the Virginia Lottery pursuant to the statute. The contract must also contain a disclosure statement setting forth the particulars of the amount assigned or loaned, relevant dates, purchase price, discount rate to present value, the amount of any fees that may be involved and the tax identification number of the assignee. The contract must advise the assignor or borrower that he has three (3) business days to cancel the assignment or loan; expressly state that the assignee or lender is eligible to purchase, share or receive prizes and that the Virginia Lottery has awarded the prize to the original winner in conformity with the law; and expressly state that no amounts assigned or loaned are subject to the Setoff Debt Collection Act.

Finally, House Bill 1564 contained a second enactment clause which directed the Virginia Lottery to submit this report to the House and Senate Finance Committees no later than December 1, 2004, "regarding borrowing and assignment act activity by Lottery winners in accordance with the provisions of this Act." Attachment 1.

Relevant Legislation

Attachment 1 to this report is Chapter 924 of the 2003 Acts of Assembly which created the expanded right to assign or pledge as collateral for a loan Lottery prizes payable over a period of time. Attachment 2 contains Chapter 630 of the 2004 Acts of Assembly. That legislation (House Bill 1027, 2004) made several changes to Virginia Lottery law, including additions to the assignment statute which (i) provide that notice of the required hearing be given to the Lottery, (ii) establishes venue for the hearings in the Circuit Court of the City of Richmond, and (iii) permits the Director to deny, suspend or revoke a registration for any violation of the Chapter or for other such reason as the Board by regulation may establish.

Several pieces of legislation are also included as attachments for historical reference purposes. Attachment 3 contains Chapter 531 of the 1987 Acts of Assembly which was the original legislation establishing the Virginia Lottery, including the restrictions on the assignment of prizes. Attachment 4 (Chapter 449 of the 1992 Acts of Assembly) and Attachment 5 (Chapter 423 of the 1995 Acts of Assembly) detail various amendments made to *Va. Code § 58.1-4013*, the provision which restricts assignments of Lottery prizes.

Process and Procedures

In order to implement the requirements of *Virginia Code § 58.1-4020.1*, the Virginia Lottery has established procedures to assure that the assignment or loan collateralization process adheres to the law.

Any person or entity wishing to accept assignments or make loans pursuant to *Virginia Code § 58.1-4020.1* is required to provide the Lottery with certain information and items. The required information and items include the following:

1. The assignee's or lender's standard information packet of materials given or sent to prospective assignors or borrowers.
2. The assignee's or lender's standard form of agreement.
3. The assignee's or lender's federal tax identification number.
4. Where applicable, the assignee's or lender's most recent public financial statement.
5. A registration fee in the amount of \$1,800 payable to the Virginia Lottery.
6. An information sheet that provides certain identification and contact information about the person or entity.
7. An agreement that the assignee of a lottery prize will make appropriate tax withholdings and maintain appropriate records.
8. An agreement that all contracts created pursuant to the statute will be presented to the Circuit Court of the City of Richmond and that the Lottery will be named as an interested party in the proceeding and be given appropriate notice as required by the statute.
9. A statement attesting that the assignee or lender has not previously and is not currently in violation of any provision of *Va. Code § 58.1-4013* or *§ 58.1-4020.1*.

Copies of the registration forms are included with this report as Attachment 6 and are available through links to the Virginia Lottery's internet homepage at www.valottery.com.

Routinely, when an entity first determines that it wishes to receive assignments of Virginia Lottery prizes, it will provide to the Lottery the registration materials described above, including the registration fee, currently in the amount of \$1,800 per registrant. (This fee, which is charged pursuant to subsection C of *Va. Code 58.1-4020.1*, is based on the estimated cost of staff time and overhead expenses required to process the application.) Upon receipt of the registration packet, it is reviewed by the Virginia Lottery's General Counsel for compliance with the statutory requirements. If the materials are satisfactory, the entity is registered as eligible to receive assignments of Virginia Lottery prizes. If the registration materials are in some way lacking, General Counsel will work with the entity to satisfactorily complete its registration procedure.

Once registered, an entity may negotiate and contract with Lottery prize winners to purchase the right to receive all or a portion of the Lottery prize revenue stream. In return, the proposed assignee will contract to pay the prize winner a lump sum cash amount.

At that point, the Virginia Lottery is normally advised of the proposed assignment and the required materials provided for review, including a proposed Order of the court approving the assignment. Concurrently, the petition to the court to approve the assignment will be presented to the Circuit Court of the City of Richmond and a date for the hearing established. The materials provided to the Virginia Lottery concerning a proposed assignment must include a processing fee in the amount of \$1,000 per assignment to cover the costs incurred by the Lottery in processing the assignment. As with the registration fee, the processing fee is established pursuant to subsection C of *Va. Code § 58.1-4020.1*. Once all required materials have been provided and reviewed, and the registration fee has been paid, the entity seeking to receive the assignment must appear in the Circuit Court and request Court approval. Counsel for the Virginia Lottery will also appear to advise the court of the Virginia Lottery's concurrence with the assignment, or of any objections the Lottery might have. The prize winner seeking to make the assignment is also given notice of the hearing and is entitled to appear if he wishes.

Finally, if the Court finds that the statutory criteria have been met, an Order will be entered approving the assignment and the Virginia Lottery will update its records to ensure that future annual payments of the annuitized prize will be made to the assignee.

Activity to Date

To date, all financial transactions subject to the provisions of *Va. Code § 58.1-4020.1* of which the Virginia Lottery is aware have involved assignments. The Virginia Lottery has not been made aware of any lottery prizes payable over time having been pledged as collateral for a loan.

Currently, there are several entities registered with the Virginia Lottery and qualified to receive assignments. A list of those entities is contained in Attachment 7. With virtually every assignment that has been made to date under the statute, the assignor entity has subsequently reassigned the lottery revenue stream to a third-party. In most cases that third-party has been a company known as Great-West Life & Annuity Insurance Company, 8515 East Orchard Road, Greenwood Village, Colorado 80111. The Virginia Lottery has taken the position that, under the statute, a company such as Great-West which does not purchase the lottery prize revenue stream directly from the prize winner, but rather from an assignee of the lottery prize winner, is not required to register under the statute. Under the statute, an entity which does not purchase directly from the prize winner could not qualify to register. As noted earlier, in order to register as an entity entitled to receive assignments of lottery prizes, the entity must provide the Virginia Lottery with the standard package of materials which the prize winner will receive from the assignor. Because Great-West and similarly situated companies have no direct relationship with the original prize winner, there is no such packet of materials available. It has been the position of the Virginia Lottery, with which the Circuit Court of the City of Richmond has agreed, that *Va. Code § 58.1-4020.1* is in large measure a consumer protection provision. Once the original prize winner has been offered protection of the statute, the necessity for consumer protection measures is satisfied. There appears to be no need to implement those same consumer protection measures when the parties involved are two financial entities operating at arm's length.

As of November 30, 2004, twenty-one (21) Virginia Lottery prize winners, or their beneficiaries, have finalized Court approved assignments of all or a portion of their Lottery prize winnings. A summary of each of those assignments is included with this report as Attachment 8. The summary for each prize winner includes his name, the date of his Lottery win, the amount won, the amount received in annual payments, the amount already paid out by the Lottery at the time of the assignment, the amount assigned, the court date when the transaction was approved, the lump-sum payable to the prize winner, and the assignee entity receiving the assignment. To date, a total of approximately \$19 million in prize winnings have been assigned under the statute.

The assignment process has generally gone smoothly. The Virginia Lottery is not aware that any goal of the legislation is not being met. Entities registering to receive assignments have been cooperative and have made every

effort to comply with statutory requirements and implementation requirements established by the Lottery. No prizewinner has made complaint regarding the process or the information and explanation he has been afforded.

Recommendations

The Virginia Lottery has no recommendation for amendment of the statute. The changes requested by the Lottery during the 2004 Session and enacted through passage of HB 1027 (2004) addressed the refinements the Lottery considered necessary. However, two issues that have been noted by the Circuit Court of the City of Richmond may bear further examination.

First, with the advantages of sixteen months experience implementing the statute and the rigorous requirements and safeguards contained within the statute, the General Assembly may wish to evaluate the continued necessity of requiring a hearing in each case before the court's approval Order is entered. Experience has shown that the original prizewinner does not find it necessary to attend the hearing and is very rarely represented at the hearing by counsel. In no instance has the prizewinner interposed an objection (or concern of any kind) to the entry of the proposed Order. This is not unexpected given the exhaustive notice, explanation, and disclosure provided to the prizewinner before an Order is prepared for presentation to the court. Indeed, the prizewinner is often the party most anxious to have the Order entered so that he may receive the lump-sum payment. A hearing could still be required in any case where a party to the proposed transaction, the Lottery, or the court requests.

Second, it may be useful to clarify that a subsequent assignment (or "reassignment") from the original assignee (or, for that matter, a subsequent assignee) to another entity does not require approval of the court. As discussed above, a primary goal of the statute is consumer protection. The purpose is to ensure that a prizewinner (1) is not subject to undue pressure or inappropriate marketing or sales techniques when he is solicited to sell his right to future Lottery payments, and (2) is fully informed of the consequences, both positive and negative, of a decision to assign the prize. In that case, where a subsequent assignment is being made between commercial entities as the result of a business-to-business, arm's length negotiation, there appears to be no goal of the statute being served.

Conclusion

The expansion of circumstances under which a Lottery prize payable over time may be assigned or pledged as collateral for a loan has not caused a flood of petitions for approval of assignments or loans subject to the statute. Because every winner of such a prize from the Virginia Lottery has had the opportunity to elect a lump-sum payment option from the Lottery, it may be assumed that only a prizewinner who has had reason to change his mind about the form of payment

has sought approval of an assignment. At this point, the statute has adequately protected prizewinners and, at the same time, has given buyers and sellers of Lottery prize payment streams the opportunity and mechanism to do so.

CHAPTER 924

An Act to amend and reenact § 58.1-4013 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 58.1-4020.1, relating to voluntary assignment of lottery prizes.

[H 1564]

Approved March 23, 2003

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-4013 of the Code of Virginia is amended and reenacted, and that the Code of Virginia is amended by adding a section numbered 58.1-4020.1 as follows:

§ 58.1-4013. Right to prize not assignable; exceptions.

A. No right of any person to a prize drawn shall be assignable, except that: (i) payment of any prize drawn may be paid according to the terms of a deceased prize winner's beneficiary designation or similar form filed with the Department or to the estate of a deceased prize winner who has not completed such a form; and (ii) the prize to which the winner is entitled may be paid to a person pursuant to an appropriate judicial order; and (iii) payment of any prize drawn may be paid in accordance with the provisions of § 58.1-4020.1. Payments made according to the terms of a deceased prize winner's beneficiary designation or similar form filed with the Department are effective by reason of the contract involved and this statute and are not to be considered as testamentary or subject to Chapter 3 (§ 64.1-45 et seq.) of Title 64.1. The Director shall be discharged of all liability upon payment of a prize pursuant to this section.

B. Investments of prize proceeds made by the Department to fund the payment of an annuitized prize are to be held in the name of the Department or the Commonwealth and not in the name of the prize winner. Any claim of a prize winner to a future payment remains inchoate until the date the payment is due under Department regulations.

C. Except as provided in Chapter 19 (§ 63.2-1900 et seq.) of Title 63.2 and this chapter, no lottery prize or installment thereof may be subject to garnishment or to a lien of any kind until such prize or installment thereof has been paid or distributed.

D. Whenever the Department or the Director is or may be named as a party in any proceeding instituted by or on behalf of one or more persons who claim ownership of a winning lottery ticket, prize, share or portion thereof for the purpose of determining the ownership or right to such ticket, prize, share or portion thereof, the Director may voluntarily pay or tender the prize, share or portion thereof into the circuit court where the action is filed, or may be ordered to do so by the court, and shall thereupon be discharged from all liability as between the claimants of such ticket, prize, share or portion thereof without regard to whether such payment was made voluntarily or pursuant to a court order.

Nothing in this section shall be deemed to constitute a waiver of the sovereign immunity of the Commonwealth or to authorize any attachment, garnishment, or lien against the prize, share or portion thereof paid into the court except as permitted by subsection C.

§ 58.1-4020.1. *Voluntary assignment of lottery prizes or pledge as collateral for a loan; requirements for the assignees and lenders.*

A. *Lottery prizes, payable in installments over a period of time, excluding prizes payable for the winner's life, may be voluntarily assigned or pledged as collateral for a loan, in whole or in part, by the person entitled to such installments, by written contract affirming that the requirements of this section have been met and endorsed by written order of a court of competent jurisdiction after a hearing. The order shall specify the name, address and social security number or tax identification number of the assignee or lender and shall specifically describe the payments to be assigned or pledged as collateral by date and gross pre-tax amount.*

The rate charged for any such assignment or loan shall not exceed 15 percent.

The contract shall:

1. *Be signed by the assignor and the assignee or the lender and the borrower, and the assignor or borrower shall affirm the assignment or loan has been voluntarily executed.*

2. *Include or be accompanied by a sworn statement attesting that the assignor or borrower (i) is*

of sound mind and not acting under duress; (ii) has been advised in writing by the assignee or lender to seek independent legal counsel and independent financial counsel concerning the implications of the assignment or loan, including the tax consequences, and has either received such advice or knowingly waived such advice in writing; (iii) understands that he is relinquishing or limiting his rights to receive the lottery proceeds; and (iv) has received from the Virginia Lottery, in response to a written request therefor, confirmation of the assignee's or lender's registration with the Virginia Lottery in accordance with subsection E of this section.

3. Include a disclosure statement setting forth (i) the amounts assigned or loaned; (ii) the dates such amounts are payable; (iii) the purchase price paid for the assignment or loan; (iv) the rate of discount to present value, assuming daily compounding and funding on the contract date; (v) the amount of any fees associated with the assignment or loan and by whom such fees are payable; and (vi) the tax identification number of the assignee.

4. Expressly state that the assignor or borrower has three business days after signing the contract to cancel the assignment or loan.

5. Expressly state that the assignee or lender is eligible to purchase, share or receive prizes of the Virginia Lottery pursuant to §§ 58.1-4015, 58.1-4016 and subsection A of § 58.1-4019, and that the Virginia Lottery has complied with subsection B of § 58.1-4019 in that the original prizewinner is (or if deceased, was) a natural person if and to the extent that the prize was awarded on or after the effective date pursuant to subsection B of § 58.1-4019.

6. Expressly state that no amounts assigned or loaned are subject to setoff pursuant to Article 21 (§ 58.1-520 et seq.) of Chapter 3 of this title.

B. The Commonwealth, the Virginia Lottery and any employee or representative of either shall be indemnified and held harmless upon payment of amounts due as set forth in the court order.

C. The Lottery may establish a reasonable fee to process the assignments provided for in this section and to receive, review and file the registration required by subsection E and confirm compliance with the registration requirements. The fee shall be reflective of the direct and indirect costs of processing the assignments or registrations.

D. Notwithstanding the provisions of this section, the Commonwealth and the Virginia Lottery shall not accept any assignment if either of the following has occurred:

1. Federal law provides that the right to assign lottery proceeds is deemed receipt of income in the year the lottery prize is won for all installment lottery prize winners. "Federal law" includes statutory law, rulings of courts of competent jurisdiction, and published rulings by the Internal Revenue Service.

2. State law provides that the right to assign lottery proceeds is deemed receipt of income in the year the lottery prize is won for all installment lottery prize winners. "State law" includes statutory law, rulings of courts of competent jurisdiction, and published rulings by the Department of Taxation.

E. An assignee, prospective assignee, lender or prospective lender shall not make any representation in any written or oral communications with a lottery winner that implies that the assignee, prospective assignee, lender or prospective lender is associated with or an agent of the Virginia Lottery. Every prospective assignee or prospective lender shall register with the Virginia Lottery, prior to contracting for any assignment or loan pursuant to this section. The registration shall include (i) the assignee's or lender's standard information packet or materials given or sent to prospective assignees or borrowers, (ii) the assignee's or lender's standard form of agreement, (iii) the assignee's or lender's federal tax identification number, and (iv) where applicable, the assignee's or lender's most recent public financial statement.

2. That the Virginia Lottery Department shall submit a report and recommendations to the House and Senate Finance Committees no later than December 1, 2004, regarding borrowing and assignment activity by lottery winners in accordance with the provisions of this act.

VIRGINIA ACTS OF ASSEMBLY -- 2004 SESSION

CHAPTER 630

An Act to amend and reenact §§ 58.1-4004, 58.1-4006, 58.1-4007, 58.1-4010, 58.1-4014, and 58.1-4020.1 of the Code of Virginia, relating to the State Lottery Law; penalty.

[H 1027]

Approved April 12, 2004

Be it enacted by the General Assembly of Virginia:

1. That §§ 58.1-4004, 58.1-4006, 58.1-4007, 58.1-4010, 58.1-4014, and 58.1-4020.1 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-4004. Membership of Board; appointment; terms; vacancies; removal; expenses.

A. The Board shall consist of five members, all of whom shall be citizens and residents of this Commonwealth and all of whom shall be appointed by and serve at the pleasure of the Governor, subject to confirmation by a majority of the members elected to each house of the General Assembly if in session when the appointment is made, and if not in session, then at its next succeeding session. Prior to the appointment of any Board members, the Governor shall consider the political affiliation and the geographic residence of the Board members. The members shall be appointed for terms of five years; ~~except that of the members first appointed, one shall be appointed for a term of five years, one for a term of four years, one for a term of three years, one for a term of two years, and one for a term of one year, each commencing as of the date of his appointment.~~ The members shall annually elect one member as chairman of the Board.

B. Any vacancy on the Board occurring for any reason other than the expiration of a term shall be filled for the unexpired term in the same manner as the original term.

C. The members of the Board shall receive such compensation as provided in § 2.2-2813, shall be subject to the requirements of such section, and shall be allowed reasonable expenses incurred in the performance of their official duties.

D. Before entering upon the discharge of their duties, the members of the Board shall take an oath that they will faithfully and honestly execute the duties of the office during their continuance therein and they shall give bond in such amount as may be fixed by the Governor, conditioned upon the faithful discharge of their duties. The premium on such bond shall be paid out of the State Lottery Fund.

§ 58.1-4006. Powers of the Director.

A. The Director shall supervise and administer the operation of the lottery in accordance with the provisions of this chapter and with the rules and regulations promulgated hereunder.

B. The Director shall also:

1. Employ such deputy directors, professional, technical and clerical assistants, and other employees as may be required to carry out the functions and duties of the Department.

2. Act as secretary and executive officer of the Board.

3. Require bond from licensed agents as provided in subsection D of § 58.1-4009 and Department employees with access to Department funds or lottery funds, in such amount as provided in the rules and regulations of the Board. The Director may also require bond from other employees as he deems necessary.

4. Confer ~~at least once every month~~ *regularly, but not less than four times each year*, with the Board on the operation and administration of the lottery; make available for inspection by the Board, upon request, all books, records, files, and other information and documents of the Department; and advise the Board and recommend such matters as he deems necessary and advisable to improve the operation and administration of the lottery.

5. Suspend, revoke or refuse to renew any license issued pursuant to this chapter or the rules and regulations adopted hereunder.

6. Enter into contracts for the operation of the lottery, or any part thereof, for the promotion of the lottery and into interstate lottery contracts with other states. A contract awarded or entered into by the Director shall not be assigned by the holder thereof except by specific approval of the Director.

7. Certify monthly to the State Comptroller and the Board a full and complete statement of lottery revenues, prize disbursements and other expenses for the preceding month.

8. Report monthly to the Governor, the Secretary of Finance and the Chairmen of the Senate Finance Committee, House Finance Committee and House Appropriations Committee the total lottery revenues, prize disbursements and other expenses for the preceding month, and make an annual report, which shall include a full and complete statement of lottery revenues, prize disbursements and other expenses, to the Governor and the General Assembly. Such annual report shall also include such recommendations for changes in this chapter as the Director and Board deem necessary or desirable.

9. Report immediately to the Governor and the General Assembly any matters which require

immediate changes in the laws of this Commonwealth in order to prevent abuses and evasions of this chapter or the rules and regulations adopted hereunder or to rectify undesirable conditions in connection with the administration or operation of the lottery.

10. Notify prize winners and appropriate state and federal agencies of the payment of prizes in excess of \$600 in the manner required by the lottery rules and regulations.

11. Provide for the withholding of the applicable amount of state and federal income tax of persons claiming a prize for a winning ticket in excess of \$5,001.

C. The Director and the director of security or investigators appointed by the Director shall be vested with the powers of sheriff and sworn to enforce the statutes and regulations pertaining to the Department and to investigate violations of the statutes and regulations that the Director is required to enforce.

§ 58.1-4007. Powers of the Board.

A. The Board shall have the power to adopt regulations governing the establishment and operation of a lottery. The regulations governing the establishment and operation of the lottery shall be promulgated by the Board after consultation with the Director. Such regulations shall be in accordance with the Administrative Process Act (§ 2.2-4000 et seq.). The regulations shall provide for all matters necessary or desirable for the efficient, honest and economical operation and administration of the lottery and for the convenience of the purchasers of tickets or shares, and the holders of winning tickets or shares. The regulations, which may be amended, repealed or supplemented as necessary, shall include, but not be limited to, the following:

1. The type or types of lottery or game to be conducted in accordance with § 58.1-4001.
2. The price or prices of tickets or shares in the lottery; however, all such sales shall be for cash.
3. The numbers and sizes of the prizes on the winning tickets or shares, including informing the public of the approximate odds of winning and the proportion of lottery revenues (i) disbursed as prizes and (ii) returned to the Commonwealth as net revenues.
4. The manner of selecting the winning tickets or shares.
5. The manner of payment of prizes to the holders of winning tickets or shares.
6. The frequency of the drawings or selections of winning tickets or shares without limitation.
7. Without limitation as to number, the type or types of locations at which tickets or shares may be sold.
8. The method to be used in selling tickets or shares.
9. The advertisement of the lottery in accordance with the provisions of subsection E of § 58.1-4022.
10. The licensing of agents to sell tickets or shares who will best serve the public convenience and promote the sale of tickets or shares. No person under the age of ~~sixteen~~ ~~eighteen~~ 18 shall be licensed as an agent. A licensed agent may employ a person who is ~~sixteen~~ 16 years of age or older to sell or otherwise vend tickets at the agent's place of business so long as the employee is supervised in the selling or vending of tickets by the manager or supervisor in charge at the location where the tickets are being sold. Employment of such person shall be in compliance with Chapter 5 (§ 40.1-78 et seq.) of Title 40.1.
11. The manner and amount of compensation, if any, to be paid licensed sales agents necessary to provide for the adequate availability of tickets or shares to prospective buyers and for the convenience of the public.
12. Apportionment of the total revenues accruing from the sale of tickets or shares and from all other sources and establishment of the amount of the special reserve fund as provided in § 58.1-4022 of this chapter.
13. Such other matters necessary or desirable for the efficient and economical operation and administration of the lottery.

The Department shall not be subject to the provisions of Chapter 43 (§ 2.2-4300 et seq.) of Title 2.2; however, the Board shall also promulgate regulations, after consultation with the Director, relative to departmental procurement which include standards of ethics for procurement consistent with the provisions of Article 6 (§ 2.2-4367 et seq.) of Chapter 43 of Title 2.2 and which ensure that departmental procurement will be based on competitive principles.

The Board shall have the power to advise and recommend, but shall have no power to veto or modify administrative decisions of the Director. However, the Board shall have the power to accept, modify or reject any revenue projections before such projections are forwarded to the Governor.

B. The Board shall carry on a continuous study and investigation of the lottery throughout the Commonwealth to:

1. Ascertain any defects of this chapter or the regulations issued hereunder which cause abuses in the administration and operation of the lottery and any evasions of such provisions.
2. Formulate, with the Director, recommendations for changes in this chapter and the regulations promulgated hereunder to prevent such abuses and evasions.
3. Guard against the use of this chapter and the regulations promulgated hereunder as a subterfuge for organized crime and illegal gambling.
4. Ensure that this law and the regulations of the Board are in such form and are so administered as to serve the true purpose of this chapter.

C. The Board shall make a continuous study and investigation of (i) the operation and the administration of similar laws which may be in effect in other states or countries, (ii) any literature on the subject which may be published or available, (iii) any federal laws which may affect the operation of the lottery, and (iv) the reaction of Virginia citizens to the potential features of the lottery with a view to recommending or effecting changes that will serve the purpose of this chapter.

D. The Board shall hear and decide an appeal of any denial by the Director of the licensing or revocation of a license of a lottery agent pursuant to subdivision 10 of subsection A of this section and subdivision 5 of subsection B of § 58.1-4006 of this chapter.

E. The Board shall have the authority to initiate procedures for the planning, acquisition, and construction of capital projects as set forth in Article 4 (§ 2.2-1129 et seq.) of Chapter 11 and Article 3 (§ 2.2-1819 et seq.) of Chapter 18 of Title 2.2.

§ 58.1-4010. Authority of persons licensed as lottery sales agents; annual fee.

A. Notwithstanding any other provision of law, any person licensed as provided in this chapter is hereby authorized to act as a lottery sales agent.

B. The rules and regulations of the lottery shall provide for an *initial licensing fee and an annual license review fee* to be collected from each lottery sales agent. Such fee, as promulgated by rule and regulation of the Board, shall be designed to recover all or such portion of the installation and annual operational costs borne by the Department in providing services to the agent.

§ 58.1-4014. Price of tickets or shares; who may sell; penalty.

A. No person shall sell a ticket or share at any price or at any location other than that fixed by rules and regulations of the Department. No person other than a licensed lottery sales agent or his employee shall sell lottery tickets or shares, except that nothing in this section shall be construed to prevent any person from giving lottery tickets or shares to another person over the age of ~~eighteen~~ 18 years as a gift.

B. Any person convicted of violating this section shall be guilty of a Class 1 misdemeanor.

C. *Any person who steals or otherwise unlawfully converts to his own or another's use a lottery ticket, prize, share, or portion thereof shall be guilty of larceny. For purposes of this subsection, the face amount of a lottery ticket, prize, share, or portion thereof shall be deemed to be its value.*

§ 58.1-4020.1. Voluntary assignment of lottery prizes or pledge as collateral for a loan; requirements for the assignees and lenders.

A. Lottery prizes, payable in installments over a period of time, excluding prizes payable for the winner's life, may be voluntarily assigned or pledged as collateral for a loan, in whole or in part, by the person entitled to such installments, by written contract affirming that the requirements of this section have been met and endorsed by written order of a court of competent jurisdiction after a hearing. The order shall specify the name, address and social security number or tax identification number of the assignee or lender and shall specifically describe the payments to be assigned or pledged as collateral by date and gross pre-tax amount. *The Department shall be given notice of any hearing held pursuant to this section and shall have the right to appear and participate in such hearing. Venue for hearings held pursuant to this section shall be in the Circuit Court of the City of Richmond.*

The rate charged for any such assignment or loan shall not exceed 15 percent.

The contract shall:

1. Be signed by the assignor and the assignee or the lender and the borrower, and the assignor or borrower shall affirm the assignment or loan has been voluntarily executed.

2. Include or be accompanied by a sworn statement attesting that the assignor or borrower (i) is of sound mind and not acting under duress; (ii) has been advised in writing by the assignee or lender to seek independent legal counsel and independent financial counsel concerning the implications of the assignment or loan, including the tax consequences, and has either received such advice or knowingly waived such advice in writing; (iii) understands that he is relinquishing or limiting his rights to receive the lottery proceeds; and (iv) has received from the Virginia Lottery, in response to a written request therefor, confirmation of the assignee's or lender's registration with the Virginia Lottery in accordance with subsection E of this section.

3. Include a disclosure statement setting forth (i) the amounts assigned or loaned; (ii) the dates such amounts are payable; (iii) the purchase price paid for the assignment or loan; (iv) the rate of discount to present value, assuming daily compounding and funding on the contract date; (v) the amount of any fees associated with the assignment or loan and by whom such fees are payable; and (vi) the tax identification number of the assignee.

4. Expressly state that the assignor or borrower has three business days after signing the contract to cancel the assignment or loan.

5. Expressly state that the assignee or lender is eligible to purchase, share or receive prizes of the Virginia Lottery pursuant to §§ 58.1-4015, 58.1-4016 and subsection A of § 58.1-4019, and that the Virginia Lottery has complied with subsection B of § 58.1-4019 in that the original prizewinner is (or if deceased, was) a natural person if and to the extent that the prize was awarded on or after the effective date pursuant to subsection B of § 58.1-4019.

6. Expressly state that no amounts assigned or loaned are subject to setoff pursuant to Article 21 (§ 58.1-520 et seq.) of Chapter 3 of this title.

~~B. The Commonwealth, the Virginia Lottery and any employee or representative of either shall be indemnified and held harmless upon payment of amounts due as set forth in the court order.~~

C. The Lottery may establish a reasonable fee to process the assignments provided for in this section and to receive, review and file the registration required by subsection E and confirm compliance with the registration requirements. The fee shall be reflective of the direct and indirect costs of processing the assignments or registrations.

D. Notwithstanding the provisions of this section, the Commonwealth and the Virginia Lottery shall not accept any assignment if either of the following has occurred:

1. Federal law provides that the right to assign lottery proceeds is deemed receipt of income in the year the lottery prize is won for all installment lottery prize winners. "Federal law" includes statutory law, rulings of courts of competent jurisdiction, and published rulings by the Internal Revenue Service.

2. State law provides that the right to assign lottery proceeds is deemed receipt of income in the year the lottery prize is won for all installment lottery prize winners. "State law" includes statutory law, rulings of courts of competent jurisdiction, and published rulings by the Department of Taxation.

E. An assignee, prospective assignee, lender or prospective lender shall not make any representation in any written or oral communications with a lottery winner that implies that the assignee, prospective assignee, lender or prospective lender is associated with or an agent of the Virginia Lottery. Every prospective assignee or prospective lender shall register with the Virginia Lottery, prior to contracting for any assignment or loan pursuant to this section. The registration shall include (i) the assignee's or lender's standard information packet or materials given or sent to prospective assignees or borrowers, (ii) the assignee's or lender's standard form of agreement, (iii) the assignee's or lender's federal tax identification number, and (iv) where applicable, the assignee's or lender's most recent public financial statement. *The Director may deny, suspend or revoke a registration for a violation of this chapter or for such other reason as the Board, by regulation, may establish.*

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities and cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.

receiver or statutory successor shall provide the board or its representative with copies of such records upon the request by the board and at the expense of the board.

CHAPTER 530

An Act to provide for a statewide referendum on the enactment of a state-operated lottery.

[H 919]

Approved March 27, 1987

Be it enacted by the General Assembly of Virginia:

1. § 1. It shall be the duty of the officers conducting the election directed by law to be held on Tuesday, November 3, 1987, at the places appointed for holding the same, to open a poll and take the sense of the qualified voters upon their approval of the question stated herein.

§ 2. At such election a ballot shall be furnished each voter which shall have printed thereon the following proposition:

Question: "Shall the 1987 Act of the General Assembly which establishes a state-operated lottery become effective in Virginia?"

Yes

No

The ballots shall be prepared, distributed and voted and the results thereof ascertained and certified, in the manner prescribed by § 24.1-165 of the Code of Virginia. It shall be the duty of the electoral board of each county and city to make out, certify and forward an abstract of the votes cast for and against such proposition in the manner prescribed by law for votes cast in general elections.

It shall be the duty of the State Board of Elections to open and canvass the abstracts of returns, and to examine and make statement of the whole number of votes given at such election for and against such proposition, in the manner now prescribed by law for votes cast in general elections; and it shall be the duty of the Board to record such certified statement in its office, and without delay to make out and transmit to the Governor an official copy of such statement, certified by it.

The Governor shall, without delay, make proclamation of the result, stating therein the aggregate vote for and against such proposition.

§ 3. The State Board of Elections shall cause to be sent to the electoral boards of each county and city sufficient copies of this act and the 1987 Act of the General Assembly which establishes a lottery to be posted in each polling place on the election day.

§ 4. The expenses incurred in conducting this election shall be defrayed as in the case of the election of members of the General Assembly.

CHAPTER 531

An Act to amend and reenact §§ 2.1-116, 58.1-322 and 58.1-460 of the Code of Virginia, and to amend the Code of Virginia by adding a section numbered 18.2-334.3 and by adding in Title 58.1 a subtitle numbered IV consisting of a chapter numbered 1, consisting of sections numbered 58.1-4000 through 58.1-4028, all generally related to the establishment of a state-operated lottery and the creation of a State Lottery Board

within a State Lottery Department; penalties; appropriation.

[H 950]

Approved March 27, 1987

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.1-116, 58.1-322 and 58.1-460 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 18.2-334.3 and by adding in Title 58.1 a subtitle numbered IV consisting of a chapter numbered 1, consisting of sections numbered 58.1-4000 through 58.1-4028, as follows:

§ 2.1-116. Certain officers and employees exempt from chapter.—A. The provisions of this chapter shall not apply to:

- (1) Officers and employees for whom the Constitution specifically directs the manner of selection;
- (2) Officers and employees of the Supreme Court and the Court of Appeals;
- (3) Officers appointed by the Governor, whether confirmation by the General Assembly or by either house thereof be required or not;
- (4) Officers elected by popular vote or by the General Assembly or either house thereof;
- (5) Members of boards and commissions however selected;
- (6) Judges, referees, receivers, arbiters, masters and commissioners in chancery, commissioners of accounts, and any other persons appointed by any court to exercise judicial functions, and jurors and notaries public;
- (7) Officers and employees of the General Assembly and persons employed to conduct temporary or special inquiries, investigations, or examinations on its behalf;
- (8) The presidents, and teaching and research staffs of state educational institutions;
- (9) Commissioned officers and enlisted personnel of the national guard and the naval militia;
- (10) Student employees in institutions of learning, and patient or inmate help in other state institutions;
- (11) Upon general or special authorization of the Governor, laborers, temporary employees and employees compensated on an hourly or daily basis;
- (12) County, city, town and district officers, deputies, assistants and employees;
- (13) The employees of the Department of Workers' Compensation, Industrial Commission of Virginia;
- (14) The following officers and employees of the Virginia Supplemental Retirement System: retirement system chief investment officer, retirement system investment officer, retirement system assistant investment officer and investment financial analyst;
- (15) The following officers and employees of the Virginia Museum of Fine Arts: the curatorial and conservatorial staffs as approved by the Director of the Department of Personnel and Training; and
- (16) The following officers and employees of executive branch agencies: those who report directly to the agency head; additionally, those at the level immediately below those who report directly to the agency head and are at a salary grade of sixteen or higher. However, in agencies with fewer than fifty employees, only the immediate advisor or advisors or deputy or deputies of the agency head shall be exempt. In implementing this exemption, personnel actions shall be taken without regard to race, sex, color, national origin, religion, age, handicap or political affiliation. Recruitment and selection of individuals covered by this exemption shall be handled in a manner consistent with policies applicable to classified positions. Notwithstanding the above, all superintendents and wardens in the Department of Corrections shall be exempt from this chapter. Additionally, all persons responsible for the internal audit and personnel and employee relations functions for each agency shall be included in this chapter. Each Governor's Secretary shall have final authority in determining on an ongoing basis the officers and employees exempted by this subsection *subdivision* and pursuant to its provisions. Such officers or employees shall

thereafter serve at the pleasure and will of their appointing authority. The Department of Personnel and Training shall advise and assist each Governor's Secretary in making these determinations and shall be responsible for maintaining an ongoing and up-to-date list of the affected positions : ; and

(17) *The sales and marketing employees of the State Lottery Department.*

B. The dismissal of any employee referred to in ~~paragraph~~ subdivision (16) of this section pursuant to this chapter shall not affect the retirement benefits, and annual and sick leave benefits accrued to such employee at the time of his dismissal, nor shall any such employee be subject to any diminution of any other employee benefits by virtue of the provisions of this chapter.

§ 18.2-334.3. *Exemptions to article; state lottery.*—Nothing in this article shall apply to any lottery conducted by the Commonwealth of Virginia pursuant to Chapter 1 (§ 58.1-4000 et seq.) of Subtitle IV of Title 58.1.

§ 58.1-322. Virginia taxable income of residents.—A. The Virginia taxable income of a resident individual means his federal adjusted gross income for the taxable year, with the modifications specified in this section.

B. To the extent excluded from federal adjusted gross income, there shall be added:

1. Interest, less related expenses to the extent not deducted in determining federal taxable income, on obligations of any state other than Virginia, or of a political subdivision of any such other state unless created by compact or agreement to which Virginia is a party;

2. Interest or dividends, less related expenses to the extent not deducted in determining federal taxable income, on obligations or securities of any authority, commission or instrumentality of the United States, which the laws of the United States exempt from federal income tax but not from state income taxes;

3. Unrelated business taxable income as defined by § 512 of the Internal Revenue Code;

4. Forty percent of the capital gain part and all of the ordinary income part of a lump-sum distribution from a qualified retirement plan, less the minimum distribution allowance and any amount excludable for federal income tax purposes;

5. Deduction for two-earner married couples as allowed under § 221 of the Internal Revenue Code; and

6. For taxable years beginning after December 31, 1981, the excess cost recovery as defined in § 58.1-323 A.

7. [Repealed.]

C. To the extent included in federal adjusted gross income, there shall be subtracted:

1. Interest or dividends on obligations of the United States and on obligations or securities of any authority, commission or instrumentality of the United States to the extent exempt from state income taxes under the laws of the United States including, but not limited to, stocks, bonds, treasury bills, and treasury notes, but not including interest on refunds of federal taxes, interest on equipment purchase contracts, or interest on other normal business transactions.

2. Interest on obligations of this Commonwealth or of any political subdivision or instrumentality of this Commonwealth.

3. Pensions or retirement income to officers and employees of the Commonwealth, its subdivisions and agencies, or surviving spouses of such officers or employees paid by the Commonwealth or an agency or subdivision thereof. The amount of subtraction allowable for retirement income paid pursuant to a retirement plan established in accordance with § 51-111.28 shall not exceed an amount equal to the amount of retirement benefit received, multiplied by the ratio of contributions made while employed by an institution of higher education located in Virginia to the total contributions made while employed by institutions of higher education everywhere.

4. Benefits received under Title II of the Social Security Act and other benefits subject to federal income taxation solely pursuant to § 86 of the Internal Revenue Code.

4a. A deduction equal to the amount used in computing the federal credit allowed under § 22 of the Internal Revenue Code by a retiree under age sixty-five who qualified for such retirement on the basis of permanent and total disability and who is a qualified individual as defined in § 22 (b) (2) of the Internal Revenue Code; provided, however, that

any person who claims a deduction under subdivision 3 of subsection C of this section may not also claim a deduction under this subdivision.

5. The amount of any refund or credit for overpayment of income taxes imposed by the Commonwealth or any other taxing jurisdiction.

6. The amount of wages or salaries eligible for the federal Targeted Jobs Credit which was not deducted for federal purposes on account of the provisions of § 280 C (a) of the Internal Revenue Code.

7. Any amount included therein which is foreign source income as defined in § 58.1-302.

8. For taxable years beginning after December 31, 1983, the available portion of total excess cost recovery as defined in § 58.1-323 B.

9. The amount of any qualified agricultural contribution as determined in § 58.1-322.1.

10. Any amount included therein less than \$600 from a prize awarded by the State Lottery Department.

D. In computing Virginia taxable income there shall be deducted from federal adjusted gross income:

1. a. The amount allowable for itemized deductions for federal income tax purposes where the taxpayer has elected for the taxable year to itemize deductions on his federal return, but reduced by the amount of income taxes imposed by the Commonwealth or any other taxing jurisdiction and deducted on such federal return and increased by an amount which, when added to the amount deducted under § 170 of the Internal Revenue Code for mileage, results in a mileage deduction at the state level for such purposes at a rate of eighteen cents per mile; or

b. Fifteen percent of federal adjusted gross income not to exceed a maximum amount of \$2,000 (or $\frac{1}{2}$ one-half of such maximum amount in the case of a married individual filing a separate return), or \$1,300 (\$650 in the case of a married individual filing a separate return), whichever is greater, provided that the taxpayer has not itemized deductions for the taxable year on his federal income tax return. For purposes of the calculation of this subsection, the federal adjusted gross income of a taxpayer who has elected under § 402 of the Internal Revenue Code to use the special ten-year averaging method of taxing a lump-sum distribution from a qualified retirement plan shall be increased by the amount added to adjusted gross income under subdivision B 4 of this section;

2. A deduction in the amount of \$600 for each personal exemption allowable to the taxpayer for federal income tax purposes, and an additional deduction of \$400 for each exemption allowable to the taxpayer under paragraph (c) of § 151 of the Internal Revenue Code;

3. A deduction equal to the amount of employment-related expenses upon which the federal credit is based under § 21 of the Internal Revenue Code for expenses for household and dependent care services necessary for gainful employment; and

4. An additional \$1,000 deduction for each child residing for the entire taxable year in a home under permanent foster care placement as defined in Chapter 10 of Title 63.1, provided the taxpayer can also claim the child as a personal exemption under § 151 of the Internal Revenue Code.

E. There shall be added to or subtracted from federal adjusted gross income (as the case may be) the individual's share, as beneficiary of an estate or trust, of the Virginia fiduciary adjustment determined under § 58.1-361.

F. There shall be added or subtracted, as the case may be, the amounts provided in § 58.1-315 as transitional modifications.

§ 58.1-460. Definitions.—For the purposes of this article:

"Wages" means all remuneration (other than fees paid to a public official) for services performed by an employee for his employer, including the cash value of all remuneration paid in any medium other than cash and also including all prizes in excess of \$5,000 paid by the State Lottery Department; except that such term shall not include remuneration paid:

1. For agricultural labor where such remuneration is paid to workers employed on the farm for services rendered on the farm in the production, harvesting, and transportation of agricultural products to market for the farmer-employer;

2. For domestic service in a private home, local college club, or local chapter of college fraternity or sorority;

3. For service not in the course of the employer's trade or business performed in a calendar quarter by an employee, unless the cash remuneration paid for such service is fifty dollars or more and such service is performed by an individual who is regularly employed by such employer to perform such service. For purposes of this paragraph *subdivision*, an individual shall be deemed to be regularly employed by an employer during a calendar quarter only if: (i) on each of some twenty-four days during such quarter such individual performs for such employer for some portion of the day service not in the course of the employer's trade or business; or (ii) such individual was regularly employed (as determined under (i)) by such employer in the performance of such service during the preceding calendar quarter;

4. For services performed by a duly ordained, commissioned, or licensed minister of church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by such order;

5. For services not in the course of the employer's trade or business, to the extent paid in any medium other than cash;

6. To, or on behalf of, an employee or his beneficiary from or to a trust described in 401 (a) of the Internal Revenue Code which is exempt from tax under § 501 (a) of the Internal Revenue Code at the time of such payment unless such payment is made to an employee of the trust as remuneration for services rendered as such employee and not as beneficiary of the trust;

7. To, or on behalf of, an employee or his beneficiary under or to an annuity plan which, at the time of such payment, meets the requirements of § 401 (a) (3), (4), (5), or (6) of the Internal Revenue Code; or

8. For acting in or service as a member of the crew of a (i) motion picture feature film, (ii) television series or commercial, or (iii) promotional film filmed totally or partially in the Commonwealth by an individual or corporation which conducts business in the Commonwealth for less than ninety days of the tax year and when such film, series or commercial is processed, edited and marketed outside the Commonwealth. Every such individual or corporation shall, immediately subsequent to the filming of such portion of the film, series or commercial filmed in the Commonwealth, file with the Commissioner of forms furnished the Department, a list of the names and social security account numbers of each actor or crew member who is a resident of the Commonwealth and is compensated by such individual or corporation.

"Payroll period" means a period for which a payment of wages is ordinarily made to the employee by his employer.

"Miscellaneous payroll period" means a payroll period other than a daily, weekly, biweekly, semimonthly, monthly, quarterly, semiannual, or annual payroll period.

"Employee" includes an individual, whether a resident or a nonresident of the Commonwealth, who performs or performed any service in the Commonwealth for wages, or a resident of the Commonwealth who performs or performed any service outside the Commonwealth for wages. The word "employee" also includes an officer, employee, or elected official of the United States, the Commonwealth, or any other state or any territory or any political subdivision thereof, or the District of Columbia, or any agency or instrumentality of any one or more of the foregoing or an officer of a corporation.

"Employer" means the Commonwealth, or any political subdivision thereof, the United States, or any agency or instrumentality of any one or more of the foregoing, or the person whether a resident or a nonresident of the Commonwealth, for whom an individual performs or performed any service as an employee or from whom an individual receives a prize in excess of \$5,000 pursuant to the State Lottery Law (§ 58.1-4000 et seq.), except that:

1. If the person, governmental unit, or agency thereof, for whom the individual performs or performed the service does not have control of the payment of the wages for such services, the term "employer" (except as used in the definition of "wages" herein) means the person having control of the payment of such wages, and

2. In the case of a person paying wages on behalf of a nonresident person not engaged

in trade or business within the Commonwealth or on behalf of any governmental unit or agency thereof not located within the Commonwealth, the term "employer" (except as used in the definition of "wages" herein) means such person.

Subtitle IV.

Other Sources of State Revenue.

CHAPTER I.

STATE LOTTERY LAW.

§ 58.1-4000. *Short title.*—This chapter shall be known and may be cited as the "State Lottery Law."

§ 58.1-4001. *Establishment of state lottery.*—This chapter establishes a lottery to be operated by the Commonwealth which will produce revenue consonant with the probity of the Commonwealth and the general welfare of its people, to be used for the public purpose.

§ 58.1-4002. *Definitions.*—For the purposes of this chapter:

"Board" means the State Lottery Board established by this chapter.

"Department" means the State Lottery Department created in this chapter.

"Director" means the Director of the State Lottery Department.

"Lottery" or "state lottery" means the lottery or lotteries established and operated pursuant to this chapter.

§ 58.1-4003. *State Lottery Department established.*—Notwithstanding the provisions of Article 1 (§ 18.2-325 et seq.) of Chapter 8 of Title 18.2 or any other provision of law, there is hereby established as an independent agency of the Commonwealth, exclusive of the legislative, executive or judicial branches of government, a State Lottery Department, which shall include a Director and a State Lottery Board for the purpose of operating a state lottery.

§ 58.1-4004. *Membership of Board; appointment; terms; vacancies; removal; expenses.*—

A. The Board shall consist of five members, all of whom shall be citizens and residents of this Commonwealth and all of whom shall be appointed by and serve at the pleasure of the Governor, subject to confirmation by a majority of the members elected to each house of the General Assembly if in session when the appointment is made, and if not in session, then at its next succeeding session. Prior to the appointment of any Board members, the Governor shall consider the political affiliation and the geographic residence of the Board members. The members shall be appointed for terms of five years, except that of the members first appointed, one shall be appointed for a term of five years, one for a term of four years, one for a term of three years, one for a term of two years, and one for a term of one year, each commencing as of the date of his appointment. The members shall annually elect one member as chairman of the Board.

B. Any vacancy on the Board occurring for any reason other than the expiration of a term shall be filled for the unexpired term in the same manner as the original term.

C. The members of the Board shall receive such compensation as provided in § 2.1-20.3, shall be subject to the requirements of such section, and shall be allowed reasonable expenses incurred in the performance of their official duties.

D. Before entering upon the discharge of their duties, the members of the Board shall take an oath that they will faithfully and honestly execute the duties of the office during their continuance therein and they shall give bond in such amount as may be fixed by the Governor, conditioned upon the faithful discharge of their duties. The premium on such bond shall be paid out of the State Lottery Fund.

§ 58.1-4005. *Appointment, qualifications and salary of Director.*—A. The Department shall be under the immediate supervision and direction of a Director, who shall be a person of good reputation, particularly as to honesty and integrity, and shall be subject to a thorough background investigation conducted by the Department of State Police prior to appointment. The Director shall be appointed by and serve at the pleasure of the Governor, subject to confirmation by a majority of the members elected to each house of the General Assembly if in session when the appointment is made, and if not in session, then at its next succeeding session. The Director shall receive a salary as provided in the general appropriations act.

B. The Director shall devote his full time to the performance of his official duties and

shall not be engaged in any other profession or occupation.

C. Before entering upon the discharge of his duties, the Director shall take an oath that he will faithfully and honestly execute the duties of his office during his continuance therein and shall give bond in such amount as may be fixed by the Governor, conditioned upon the faithful discharge of his duties. The premium on such bond shall be paid out of the State Lottery Fund.

§ 58.1-4006. Powers of the Director.—A. The Director shall supervise and administer the operation of the lottery in accordance with the provisions of this chapter and with the rules and regulations promulgated hereunder.

B. The Director shall also:

1. Employ such deputy directors, professional, technical and clerical assistants, and other employees as may be required to carry out the functions and duties of the Department.

2. Act as secretary and executive officer of the Board.

3. Require bond from licensed agents as provided in subsection D of § 58.1-4009 and Department employees with access to Department funds or lottery funds, in such amount as provided in the rules and regulations of the Board. The Director may also require bond from other employees as he deems necessary.

4. Confer at least once every month with the Board on the operation and administration of the lottery; make available for inspection by the Board, upon request, all books, records, files, and other information and documents of the Department; and advise the Board and recommend such matters as he deems necessary and advisable to improve the operation and administration of the lottery.

5. Suspend, revoke or refuse to renew any license issued pursuant to this chapter or the rules and regulations adopted hereunder.

6. Enter into contracts for the operation of the lottery, or any part thereof, for the promotion of the lottery and into interstate lottery contracts with other states. A contract awarded or entered into by the Director shall not be assigned by the holder thereof except by specific approval of the Director.

7. Certify monthly to the State Comptroller and the Board a full and complete statement of lottery revenues, prize disbursements and other expenses for the preceding month.

8. Report monthly to the Governor, the Secretary of Finance and the Chairmen of the Senate Finance Committee, House Finance Committee and House Appropriations Committee the total lottery revenues, prize disbursements and other expenses for the preceding month, and make an annual report, which shall include a full and complete statement of lottery revenues, prize disbursements and other expenses, to the Governor and the General Assembly. Such annual report shall also include such recommendations for changes in this chapter as the Director and Board deem necessary or desirable.

9. Report immediately to the Governor and the General Assembly any matters which require immediate changes in the laws of this Commonwealth in order to prevent abuses and evasions of this chapter or the rules and regulations adopted hereunder or to rectify undesirable conditions in connection with the administration or operation of the lottery.

10. Notify prize winners and appropriate state and federal agencies, of the payment of prizes amounting to \$600 or more in the manner required by the lottery rules and regulations.

11. Provide for the withholding of the applicable amount of state and federal income tax of persons claiming a prize for a winning ticket in excess of \$5,000.

§ 58.1-4007. Powers of the Board.—A. The Board shall have the power to adopt rules and regulations governing the establishment and operation of a lottery. The rules and regulations governing the establishment and operation of the lottery shall be promulgated by the Board after consultation with the Director. Except as provided in § 58.1-4028, such rules and regulations shall be in accordance with the Administrative Process Act (§ 9-6.14:1 et seq.). The rules and regulations shall provide for all matters necessary or desirable for the efficient, honest and economical operation and administration of the lottery and for the convenience of the purchasers of tickets or shares, and the holders of winning tickets or shares. The rules and regulations, which may be amended, repealed or supplemented as

necessary, shall include, but not be limited to, the following:

1. The type or types of lottery to be conducted.
2. The price or prices of tickets or shares in the lottery; however, all such sales shall be for cash.
3. The numbers and sizes of the prizes on the winning tickets or shares.
4. The manner of selecting the winning tickets or shares.
5. The manner of payment of prizes to the holders of winning tickets or shares.
6. The frequency of the drawings or selections of winning tickets or shares without limitation.
7. Without limitation as to number, the type or types of locations at which tickets or shares may be sold.
8. The method to be used in selling tickets or shares.
9. The advertisement of the lottery in accordance with the provisions of subsection E of § 58.1-4022.
10. The licensing of agents to sell tickets or shares who will best serve the public convenience and promote the sale of tickets or shares. No person under the age of eighteen shall (i) be licensed as an agent, or (ii) be employed by a licensed agent to sell or otherwise vend tickets.
11. The manner and amount of compensation, if any, to be paid licensed sales agents necessary to provide for the adequate availability of tickets or shares to prospective buyers and for the convenience of the public.
12. Apportionment of the total revenues accruing from the sale of tickets or shares and from all other sources and establishment of the amount of the special reserve fund as provided in § 58.1-4022 of this chapter.
13. Such other matters necessary or desirable for the efficient and economical operation and administration of the lottery.

The Board shall also promulgate rules and regulations, after consultation with the Director, relative to Department procurement which include standards of ethics for procurement consistent with the provisions of Article 4 (§ 11-72 et seq.) of Chapter 7 of Title 11 of the Code of Virginia and which ensure that departmental procurement will be based on competitive principles.

The Board shall have the power to advise and recommend, but shall have no power to veto or modify administrative decisions of the Director.

B. The Board shall carry on a continuous study and investigation of the lottery throughout the Commonwealth to:

1. Ascertain any defects of this chapter or the rules or regulations issued hereunder which cause abuses in the administration and operation of the lottery and any evasions of such provisions.
2. Formulate, with the Director, recommendations for changes in this chapter and the rules and regulations promulgated hereunder to prevent such abuses and evasions.
3. Guard against the use of this chapter and the rules and regulations promulgated hereunder as a subterfuge for organized crime and illegal gambling.
4. Ensure that this law and the rules and regulations of the Board are in such form and are so administered as to serve the true purpose of this chapter.

C. The Board shall make a continuous study and investigation of (i) the operation and the administration of similar laws which may be in effect in other states or countries, (ii) any literature on the subject which may be published or available, (iii) any federal laws which may affect the operation of the lottery, and (iv) the reaction of Virginia citizens to the potential features of the lottery with a view to recommending or effecting changes that will serve the purpose of this chapter.

D. The Board shall hear and decide an appeal of any denial by the Director of the licensing or revocation of a lottery agent pursuant to subdivision 10 of subsection A of this section and subdivision 5 of subsection B of § 58.1-4006 of this chapter.

§ 58.1-4008. Employees of the Department; background investigations of employees.—All persons employed by the Department shall be fingerprinted before, and as a condition of, employment. A background investigation shall be conducted by the chief security officer of the State Lottery Department on every applicant prior to employment by the Department.

However, all division directors of the State Lottery Department and employees of the State Lottery Department performing duties primarily related to security matters shall be subject to a background investigation report conducted by the Department of State Police prior to employment by the Department. The Department of State Police shall be reimbursed by the State Lottery Department for the cost of investigations conducted pursuant to this section or § 58.1-4005. No person who has been convicted of a felony, bookmaking or other forms of illegal gambling, or of a crime involving moral turpitude shall be employed by the Department.

§ 58.1-4009. Licensing of lottery sales agents.—A. No license as an agent to sell lottery tickets or shares shall be issued to any person to engage in business primarily as a lottery sales agent. Before issuing such license the Director shall consider such factors as (i) the financial responsibility and security of the person and his business or activity; (ii) the accessibility of his place of business or activity to the public; (iii) the sufficiency of existing licensees to serve the public convenience; and (iv) the volume of expected sales.

B. For the purposes of this section, the term "person" means an individual, association, partnership, corporation, club, trust, estate, society, company, joint stock company, receiver, trustee, assignee, referee, or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals. "Person" also means all departments, commissions, agencies and instrumentalities of the Commonwealth, including counties, cities, municipalities, agencies and instrumentalities thereof.

C. The chief security officer of the State Lottery Department shall conduct a background investigation on applicants for licensure as lottery sales agents. The Director may refuse to issue a license to operate as an agent to sell lottery tickets or shares to any person who has been (i) convicted of a crime involving moral turpitude, (ii) convicted of bookmaking or other forms of illegal gambling, (iii) found guilty of any fraud or misrepresentation in any connection, or (iv) convicted of a felony. The Director may refuse to grant a license or may suspend, revoke or refuse to renew a license issued pursuant to this chapter to a partnership or corporation, if he determines that any general or limited partner, or officer or director of such partnership or corporation has been (i) convicted of a crime involving moral turpitude, (ii) convicted of bookmaking or other forms of illegal gambling, (iii) found guilty of any fraud or misrepresentation in any connection or (iv) convicted of a felony.

D. Prior to issuance of a license, every lottery sales agent shall be bonded by a surety company entitled to do business in this Commonwealth in such amount and penalty as may be prescribed by the rules and regulations of the department, payable to the State Lottery Department and conditioned upon the faithful performance of his duties.

E. Every licensed agent shall prominently display his license, or a copy thereof, as provided in the rules and regulations of the Department.

§ 58.1-4010. Authority of persons licensed as lottery sales agents; annual fee.—A. Notwithstanding any other provision of law, any person licensed as provided in this chapter is hereby authorized to act as a lottery sales agent.

B. The rules and regulations of the lottery shall provide for an annual license fee to be collected from each lottery sales agent. Such fee, as promulgated by rule and regulation of the Board, shall be designed to recover all or such portion of the installation and annual operational costs borne by the Department in providing services to the agent.

§ 58.1-4011. Meaning of "gross receipts."—A. Notwithstanding the provisions of Chapter 37 (§ 58.1-3700 et seq.) of this title or § 58.1-4025 of this chapter relating to local license taxes, the term "gross receipts" as used in Chapter 37 shall include only the compensation actually paid to a licensed sales agent as provided by rule or regulation adopted by the Board consistent with the provisions of subdivision 11 of subsection A of § 58.1-4007.

B. Unless otherwise provided by contract, any person licensed as a lottery agent who makes rental payments for the business premises on which state lottery tickets are sold on the basis of retail sales shall have that portion of rental payment based on sales of state lottery tickets or shares computed on the basis of the compensation received as a lottery agent from the State Lottery Department.

§ 58.1-4012. Suspension and revocation of licenses.—The Director may suspend, revoke,

or refuse to renew, after notice and a hearing, any license issued pursuant to this chapter. Such license may, however, be temporarily suspended by the Director without prior notice, pending any prosecution, hearing or investigation, whether by a third party or by the Director. A license may be suspended, revoked or refused renewal by the Director for one or more of the following reasons:

1. Failure to properly account for lottery tickets received or the proceeds of the sale of lottery tickets;
2. Failure to file a bond if required by the Director or to comply with instructions and rules and regulations of the Department concerning the licensed activity, especially with regard to the prompt payment of claims;
3. Conviction of any offense referenced in subsection C of § 58.1-4009 subsequent to licensure;
4. Failure to file any return or report, to keep records or to pay any fees or other charges required by this chapter;
5. Any act of fraud, deceit, misrepresentation or conduct prejudicial to public confidence in the Commonwealth lottery;
6. If the number of lottery tickets sold by the lottery sales agent is insufficient to meet administrative costs and public convenience is adequately served by other licensees; or
7. A material change, since issuance of the license, with respect to any matters required to be considered by the Director under this chapter.

§ 58.1-4013. Right to prize not assignable; exceptions.—No right of any person to a prize drawn shall be assignable, except that: (i) payment of any prize drawn may be paid to the estate of a deceased prize winner; and (ii) the prize to which the winner is entitled may be paid to a person pursuant to an appropriate judicial order. The Director shall be discharged of all liability upon payment of a prize pursuant to this section.

§ 58.1-4014. Price of tickets or shares; who may sell; penalty.—A. No person shall sell a ticket or share at any price other than that fixed by rules and regulations of the Department. No person other than a licensed lottery sales agent or his employee shall sell lottery tickets or shares, except that nothing in this section shall be construed to prevent any person from giving lottery tickets or shares to another person over the age of eighteen years as a gift.

B. Any person convicted of violating this section shall be guilty of a Class 1 misdemeanor.

§ 58.1-4015. Sale of ticket or share to person under eighteen prohibited.—No ticket or share shall be sold to any person under the age of eighteen years. Any licensee who knowingly sells or offers to sell a lottery ticket or share to any person under the age of eighteen years is guilty of a Class 1 misdemeanor.

§ 58.1-4016. Gift to minor prohibited.—No ticket or share shall be given as a gift or otherwise to any person under the age of eighteen years. Any person who knowingly gives a lottery ticket or share to any person under the age of eighteen years is guilty of a Class 3 misdemeanor.

§ 58.1-4017. Presentation of counterfeit or altered ticket or share; penalty.—Any person who knowingly presents for payment or transfers to another person to be presented for payment a counterfeit or altered lottery ticket or share sold pursuant to this chapter is guilty of a Class 6 felony.

§ 58.1-4018. Prohibited actions; penalty.—Any person who wrongfully and fraudulently uses, disposes of, conceals or embezzles any public money or funds associated with the operation of the lottery shall be guilty of a Class 2 felony. Any person who wrongfully and fraudulently tampers with any equipment or machinery used in the operation of the lottery shall be guilty of a Class 2 felony. Any person who makes inaccurate entries regarding a financial accounting of the lottery in order to conceal the truth, defraud the Commonwealth and obtain money to which he is not entitled shall be guilty of a Class 2 felony.

§ 58.1-4019. Certain persons ineligible to purchase tickets or shares or receive prizes.—No ticket or share shall be purchased by, and no prize shall be paid to, any Board member, officer or employee of the lottery or any person residing in the same household of such member, officer or employee.

§ 58.1-4020. Unclaimed prizes.—Unclaimed prizes for a winning ticket or share shall be retained by the Director for the person entitled thereto for 180 days after the drawing in which the prize was won. If no claim is made for the prize within the 180 days, the prize shall be considered forfeited by the person entitled to claim such winnings and the money paid into the Literary Fund.

§ 58.1-4021. Deposit of moneys received by agents; performance of functions, etc., in connection with operation of lottery; compensation of agents.—A. The Director shall require all lottery sales agents to deposit to the credit of the State Lottery Fund in banks, designated by the State Treasurer, all moneys received by such agents from the sale of lottery tickets or shares, less any amount paid as prizes or retained as compensation to agents for the sale of the tickets or shares, and to file with the Director, or his designates agents, reports of their receipts, transactions and disbursements pertaining to the sale of lottery tickets in such form and containing such information as he may require. Such deposits and reports shall be submitted at such times and within such intervals as shall be prescribed by rule and regulation of the Department. The Director may arrange for any person, including a bank, to perform such functions, activities or services in connection with the operation of the lottery as he may deem advisable pursuant to this chapter and the rules and regulations of the Department, and such functions, activities and services shall constitute lawful functions, activities and services of the person.

B. The rules and regulations of the Board shall provide for a service charge to the licensed agent if any payor bank dishonors a check or draft tendered for deposit to the credit of the State Lottery Fund by a licensed agent or for an electronic transfer of funds to the State Lottery Fund from the account of a licensed agent for money received from the sale of lottery tickets.

C. A licensed agent shall be charged interest as provided in § 58.1-15 on the money that is not timely paid to the State Lottery Fund in accordance with the rules and regulations of the Department and shall in addition thereto pay penalties as provided by rules and regulations of the Board.

D. Should the Department refer the debt of any licensed agent to the Attorney General, the Department of Taxation as provided in § 58.1-520 et seq., or any other central collection unit of the Commonwealth, an additional service charge shall be imposed in the amount necessary to cover the administrative costs of the Department and agencies to which such debt is referred.

§ 58.1-4022. State Lottery Fund.—A. All moneys received from the sale of lottery tickets or shares, less payment for prizes and commissions of agents as authorized by rule and regulation and any other revenues received under this chapter, shall be placed in a special fund known as the "State Lottery Fund." Notwithstanding any other provisions of law, interest earned from moneys in the State Lottery Fund shall accrue to the benefit of such Fund.

B. The total costs for the operation and administration of the lottery shall be funded from the State Lottery Fund and shall be in such amount as provided in the general appropriation act. Appropriations to the Department during any fiscal year beginning on and after July 1, 1989, exclusive of agent commissions, shall at no time exceed ten percent of the total annual estimated gross revenues to be generated from lottery sales. However, should it be anticipated at any time by the Director that such operational and administrative costs for a fiscal year will exceed the limitation provided herein, the Director shall immediately report such information to the Board, the Governor and the Chairmen of Senate Finance and House Appropriations Committees. From the moneys in the Fund, the Comptroller shall establish a special reserve fund in such amount as shall be provided by rule and regulation of the Department for (i) operation of the lottery, or (ii) use if the game's pay-out liabilities exceed its cash on hand.

C. Any start-up sums appropriated from the general fund of the Commonwealth necessary to commence operation of a state lottery shall be repaid within the first twelve months of initial lottery sales.

D. Appropriation of lottery revenues shall be made only upon actual and audited collections as transferred to the general fund and shall in no event be predicated upon an estimation of such revenues. No later than thirty days after receipt of the audit report

required by § 58.1-4023, the Comptroller shall transfer to the general fund, less the special reserve fund, the audited balances of the State Lottery Fund.

E. As a function of the administration of this chapter, funds may be expended for the purposes of reasonably informing the public concerning (i) the facts embraced in the subjects contained in subdivisions 1 through 7 of subsection A of § 58.1-4007 and (ii) the fact that the net proceeds are paid into the general fund of the Commonwealth; but no funds shall be expended for the primary purpose of inducing persons to participate in the lottery.

§ 58.1-4023. *Post-audit of accounts and transactions of Department; post-compliance audits.*—A regular post-audit shall be conducted of all accounts and transactions of the Department. An annual audit of a fiscal and compliance nature of the accounts and transactions of the Department shall be conducted by the Auditor of Public Accounts on or before September 30 of each year. The cost of the annual audit and post-audit examinations shall be borne by the Department. The Board may order such other audits as it deems necessary and desirable.

§ 58.1-4024. *Sales and marketing employees.*—Employees hired by the Department who perform sales and marketing responsibilities shall be exempt from the provisions of the Virginia Personnel Act, Chapter 10 (§ 2.1-110 et seq.) of Title 2.1. Personnel actions under this exemption shall be taken without regard to race, sex, color, national origin, religion, age, handicap or political affiliation. Recruitment and selection of individuals covered by this exemption shall be handled in a manner consistent with policies applicable to classified positions.

§ 58.1-4025. *Exemption of lottery prizes and sales of tickets from state and local taxation.*—Except as provided in Chapter 3 (§ 58.1-300 et seq.) of Title 58.1 and § 58.1-4011, no state or local taxes of any type whatsoever shall be imposed upon any prize awarded or upon the sale of any lottery ticket sold pursuant to the State Lottery Law.

§ 58.1-4026. *Set-off of debts to the Commonwealth from prizes.*—The Director shall establish by rule and regulation a set-off debt collection program in accordance with the provisions of the Set-off Debt Collection Act, Article 21 (§ 58.1-520 et seq.) of Chapter 3 of this title, wherein certain prizes shall be subjected to delinquent debts of agencies and institutions of the Commonwealth. The Director shall be responsible for the administration of the program and shall ensure by rule and regulation of the Department that any agency eligible to participate in the Set-off Debt Collection Act, Article 21 (§ 58.1-520 et seq.) of Chapter 3 of this title, shall be eligible to participate in the lottery prize set-off. The Tax Commissioner shall transmit to the Director, at such intervals as requested by the Director, a listing of claimant agencies and delinquent debts owed thereto.

§ 58.1-4027. *Judicial review.*—The action of the Board in granting, or in refusing to grant, in suspending or revoking any license under the provisions of this chapter shall be subject to review in accordance with the provisions of the Administrative Process Act (§ 9-6.14:1 et seq.). Such review shall be limited to the evidential record of the proceedings provided by the Board. Both the petitioner and the Board shall have the right to appeal to the Court of Appeals from any order of the court.

§ 58.1-4028. *Transitional provisions.*—A. In order to implement the lottery expeditiously, the initial rules and regulations shall be adopted by the Board and approved by the Governor, but shall not be subject to the Administrative Process Act (§ 9-6.14:1 et seq.) during the first twelve-month period following the effective date of this chapter. At the end of such period, all rules and regulations shall automatically expire. Thereafter, all rules and regulations shall fully comply with the provisions of the Administrative Process Act.

B. The Director may issue temporary licenses upon conditions as he deems necessary, subject, however, to all limitations set forth in this chapter, for a term which shall not extend beyond one year after the effective date of this act.

2. That the provisions of this act shall become effective on December 1, 1987, if approved by a majority of the voters at the 1987 general election on November 3, 1987.

3. That contingent upon the approval of a lottery by the voters in the referendum to be held on November 3, 1987, there is hereby appropriated a sum sufficient to initiate operations of the State Lottery Department. Pending formal appropriation of such funds within the Appropriation Act by the 1988 Session of the General Assembly, the Governor is

hereby authorized, following approval of the referendum, to release the appropriation of such nongeneral funds.

CHAPTER 532

An Act to amend and reenact § 58.1-608 of the Code of Virginia, relating to sales and use tax exemptions.

[H 972

Approved March 27, 1987

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-608 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-608. Exclusions and exemptions.—The tax imposed by this chapter or pursuant to the authority granted in §§ 58.1-605 and 58.1-606 shall not apply to the following:

1. (a) Industrial materials for future processing, manufacturing, refining, or conversion into articles of tangible personal property for resale where such industrial materials either enter into the production of or become a component part of the finished product; (b) industrial materials that are coated upon or impregnated into the product at any stage of its processing, manufacture, refining, or conversion for resale; (c) machinery or tools or repair parts therefor or replacements thereof, fuel, power, energy, or supplies, used directly in processing, manufacturing, refining, mining or conversion of products for sale or resale; (d) materials, containers, labels, sacks, cans, boxes, drums or bags for future use for packaging tangible personal property for shipment or sale; or (e) equipment, printing or supplies used directly to produce a publication described in subdivision 13 whether it is ultimately sold at retail or for resale or distribution at no cost. Machinery, tools and equipment, or repair parts therefor or replacements thereof, shall be exempt if the preponderance of their use is used directly in processing, manufacturing, refining, mining or conversion of products for sale or resale.

2. Professional, insurance, or personal service transactions which involve sales as inconsequential elements for which no separate charges are made, nor services rendered by repairmen for which a separate charge is made.

3. Commercial feeds, seed, plants, fertilizers, liming materials, breeding and other livestock, semen, breeding fees, baby chicks, turkey poult, agricultural chemicals, fuel for drying or curing crops, baler twine, containers for fruits and vegetables, farm machinery, all other tangible personal property, except for structural construction materials, necessary for use in agricultural production for market and sold to or purchased by a farmer or contractor to be affixed to real property owned or leased by a farmer; agricultural supplies provided the same are sold to and purchased by farmers for use in agricultural production, including fish and worm farming for market.

4. Every agricultural commodity or kind of seafood sold or distributed by any person to any other person who purchases not for direct consumption but for the purpose of acquiring raw products for use or consumption in the process of preparing, finishing, or manufacturing such agricultural or seafood commodity for the ultimate retail consumer trade, except when such agricultural or seafood commodity is actually sold or distributed as a marketable or finished product to the ultimate consumer. The term "agricultural commodity," for the purposes of this subdivision, shall mean horticultural, poultry, and farm products, and livestock and livestock products.

5. Livestock and livestock products, poultry and poultry products, farm and agricultural products, when produced by the farmer and used or consumed by him and the members of his family.

CHAPTER 447

An Act to amend and reenact § 24.1-252 of the Code of Virginia, relating to the Fair Elections Practices Act and forms for reporting campaign contributions and expenditures.

[H 541]

Approved March 23, 1992

Be it enacted by the General Assembly of Virginia:

1. That § 24.1-252 of the Code of Virginia is amended and reenacted as follows:

§ 24.1-252. Summary of election laws; forms.—The State Board of Elections shall summarize the provisions of the election laws relating to campaign contributions and expenditures and provide for distribution of this summary and prescribed forms to all candidates for nomination for or election to office at the time such candidates file either pursuant to § 24.1-253 or for nomination or election. The Board shall designate the form of the report of expenditures and contributions which shall be the only such form used in complying with the provisions of this chapter. *The Board shall also prescribe a separate form for reporting certain large expenditures and contributions required to be reported separately pursuant to §§ 24.1-257.1 and 24.1-257.2.*

CHAPTER 448

An Act to extend the Commission to study a certain part of the boundary between Virginia and West Virginia.

[H 569]

Approved March 23, 1992

Whereas, the 1986 Session of the General Assembly created a Commission composed of two members appointed by the Governor to represent the Commonwealth in studying and making a report on the true boundary between Loudoun County, Virginia, and Jefferson County, West Virginia; and

Whereas, in light of delays in initiating and coordinating the efforts of the two states, the 1988 and 1991 Sessions of the General Assembly extended the time to complete the study; and

Whereas, the Commission will report to the Governor and the General Assembly not later than July 1, 1992, as required by the 1991 Session of the General Assembly; and

Whereas, while the commissioners of the two states have agreed on the boundary, it is necessary for the commissioners representing the Commonwealth to continue to work with their West Virginia counterparts while the boundary is surveyed and properly marked; now, therefore,

Be it enacted by the General Assembly of Virginia:

1. § 1. *That the Commission created pursuant to Chapter 181 of the Acts of Assembly of 1986 and extended pursuant to Chapter 606 of the Acts of Assembly of 1988 and Chapter 52 of the Acts of Assembly of 1991 shall continue in existence, with the members who have been duly appointed by the Governor, until such a time as the agreed-upon boundary between Loudoun County, Virginia, and Jefferson County, West Virginia, shall have been surveyed and marked.*

CHAPTER 449

An Act to amend and reenact §§ 58.1-4006, 58.1-4008, 58.1-4012, 58.1-4013, 58.1-4014, 58.1-4019 and 58.1-4020 of the Code of Virginia, relating to the State Lottery Department.

[H 666]

Approved March 23, 1992

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-4006, 58.1-4008, 58.1-4012, 58.1-4013, 58.1-4014, 58.1-4019 and 58.1-4020 of the Code of Virginia are amended and reenacted as follows:

§ 58.1-4006. Powers of the Director.—A. The Director shall supervise and administer the operation of the lottery in accordance with the provisions of this chapter and with the rules and regulations promulgated hereunder.

B. The Director shall also:

1. Employ such deputy directors, professional, technical and clerical assistants, and other employees as may be required to carry out the functions and duties of the Department.

2. Act as secretary and executive officer of the Board.

3. Require bond from licensed agents as provided in subsection D of § 58.1-4009 and Department employees with access to Department funds or lottery funds, in such amount as provided in the rules and regulations of the Board. The Director may also require bond from other employees as he deems necessary.

4. Confer at least once every month with the Board on the operation and administration of the lottery; make available for inspection by the Board, upon request, all books, records, files, and other information and documents of the Department; and advise the Board and recommend such matters as he deems necessary and advisable to improve the operation and administration of the lottery.

5. Suspend, revoke or refuse to renew any license issued pursuant to this chapter or the rules and regulations adopted hereunder.

6. Enter into contracts for the operation of the lottery, or any part thereof, for the promotion of the lottery and into interstate lottery contracts with other states. A contract awarded or entered into by the Director shall not be assigned by the holder thereof except by specific approval of the Director.

7. Certify monthly to the State Comptroller and the Board a full and complete statement of lottery revenues, prize disbursements and other expenses for the preceding month.

8. Report monthly to the Governor, the Secretary of Finance and the Chairmen of the Senate Finance Committee, House Finance Committee and House Appropriations Committee the total lottery revenues, prize disbursements and other expenses for the preceding month, and make an annual report, which shall include a full and complete statement of lottery revenues, prize disbursements and other expenses, to the Governor and the General Assembly. Such annual report shall also include such recommendations for changes in this chapter as the Director and Board deem necessary or desirable.

9. Report immediately to the Governor and the General Assembly any matters which require immediate changes in the laws of this Commonwealth in order to prevent abuses and evasions of this chapter or the rules and regulations adopted hereunder or to rectify undesirable conditions in connection with the administration or operation of the lottery.

10. Notify prize winners and appropriate state and federal agencies ; of the payment of prizes amounting to *in excess of \$600 or more* in the manner required by the lottery rules and regulations.

11. Provide for the withholding of the applicable amount of state and federal income tax of persons claiming a prize for a winning ticket in excess of ~~\$5,000~~ *\$5,001*.

§ 58.1-4008. Employees of the Department; background investigations of employees.—All persons employed by the Department shall be fingerprinted before, and as a condition of, employment. These fingerprints shall be submitted to the Federal Bureau of Investigation for a National Criminal Records search and to the Department of State Police for a Virginia Criminal History Records search. All board members, officers and employees of any vendor to the State Lottery Department of lottery on-line or instant ticket goods or services working directly on a contract with the Lottery Department for such goods or services shall be subject to a National Criminal Records search conducted by the chief security officer of the State Lottery Department. A background investigation shall be conducted by the chief security officer of the State Lottery Department on every applicant prior to employment by the Department. However, all division directors of the State Lottery Department and employees of the State Lottery Department performing duties primarily related to security matters shall be subject to a background investigation report conducted by the Department of State Police prior to employment by the Department. The Department of State Police shall be reimbursed by the State Lottery Department for the cost of investigations conducted pursuant to this section or § 58.1-4005. No person who has been convicted of a felony, bookmaking or other forms of illegal gambling, or of a crime involving moral turpitude shall be employed by the Department *or on contracts with vendors described in this section*.

§ 58.1-4012. Suspension and revocation of licenses.—The Director may suspend, revoke, or refuse to renew, after notice and a hearing, any license issued pursuant to this chapter. Such license may, however, be temporarily suspended by the Director without prior notice, pending any prosecution, hearing or investigation, whether by a third party or by the Director. A license may be suspended, revoked or refused renewal by the Director for one or more of the

E. In accordance with the provisions of the Soldiers' and Sailors' Civil Relief Act of 1940 (50 App. U.S.C.A. § 525), any person while in active military service may claim exemption from the 180-day ticket redemption requirement. Such person, however, must claim his winning ticket or share as soon as practicable and in no event later than 180 days after discharge from active military service.

CHAPTER 450

An Act to amend and reenact § 55-514 of the Code of Virginia, relating to the Property Owners' Association Act.

[H 690]

Approved March 23, 1992

Be it enacted by the General Assembly of Virginia:

1. That § 55-514 of the Code of Virginia is amended and reenacted as follows:

§ 55-514. Authority to levy special assessments.—A. In addition to all other assessments which are authorized in the declaration, the board of directors of an association shall have the power to levy a special assessment against its members if the purpose in so doing is found by the board to be in the best interests of the association and the proceeds of the assessment are used primarily for the maintenance and upkeep, including capital expenditures, of the common area. A majority of votes cast, in person or by proxy, at a meeting of the membership convened in accordance with the provisions of the association's bylaws within sixty days of promulgation of the notice of the assessment shall rescind *or reduce* the special assessment. No director or officer of the association shall be liable for failure to perform his fiduciary duty if a special assessment for the funds necessary for the director or officer to perform his fiduciary duty is rescinded by the owners pursuant to this section, and the association shall indemnify such director or officer against any damage resulting from any claimed breach of fiduciary duty arising therefrom.

B. The failure of a member to pay the special assessment allowed by subsection A shall entitle the association to the lien provided by § 55-516 as well as any other rights afforded a creditor under law.

C. The failure of a member to pay the special assessment allowed by subsection A will provide the association with the right to deny the member access to any or all of the common areas. Notwithstanding the immediately preceding sentence, direct access to the member's lot over any road within the development which is a common area shall not be denied the member.

CHAPTER 451

An Act to amend and reenact § 55-248.11:1 of the Code of Virginia, relating to inspection of premises under the Virginia Residential Landlord and Tenant Act.

[H 714]

Approved March 23, 1992

Be it enacted by the General Assembly of Virginia:

1. That § 55-248.11:1 of the Code of Virginia is amended and reenacted as follows:

§ 55-248.11:1. Inspection of premises.—The landlord shall, within five days after occupancy of a dwelling unit, submit a written report to the tenant, for his safekeeping, itemizing damages to the dwelling unit existing at the time of occupancy, which record shall be deemed correct unless the tenant objects thereto in writing within five days after receipt thereof. *The landlord may adopt a written policy allowing the tenant to prepare the written report of the check-in inspection, in which case the tenant shall submit a copy to the landlord, which record shall be deemed correct unless the landlord objects thereto in writing within five days after receipt*

3a. Credit unions organized and conducted as such under the laws of the Commonwealth or under the laws of the United States;

4. Electing small business corporations (S corporations);

5. Religious, educational, benevolent and other corporations not organized or conducted for pecuniary profit which by reason of their purposes or activities are exempt from income tax under the laws of the United States, except those organizations which have unrelated business income or other taxable income under such laws; ~~and~~

6. Telephone companies chartered in the Commonwealth which are exclusively a local mutual association and are not designated to accumulate profits for the benefit of, or to pay dividends to, the stockholders or members thereof; *and*

7. *A corporation that has contracted with a commercial printer for printing and that is not otherwise taxable shall not become taxable by reason of: (i) the ownership or leasing by that corporation of tangible personal property located at the Virginia premises of the commercial printer and used solely in connection with the printing contract with such person; (ii) the sale by that corporation at another location of property of any kind printed at and shipped or distributed from the Virginia premises of the commercial printer; (iii) the activities in connection with the printing contract with such person of any kind performed by or on behalf of that corporation at the Virginia premises of the commercial printer; and (iv) the activities in connection with the printing contract with such person performed by the commercial printer for or on behalf of that corporation.*

CHAPTER 423

An Act to amend and reenact § 58.1-4013 of the Code of Virginia, relating to lottery prizes.

Approved March 20, 1995

[S 1023]

Be it enacted by the General Assembly of Virginia:

1. That § 58.1-4013 of the Code of Virginia is amended and reenacted as follows:

§ 58.1-4013. Right to prize not assignable; exceptions.

A. No right of any person to a prize drawn shall be assignable, except that: (i) payment of any prize drawn may be paid according to the terms of a deceased prize winner's beneficiary designation or similar form filed with the Department or to the estate of a deceased prize winner who has not completed such a form; and (ii) the prize to which the winner is entitled may be paid to a person pursuant to an appropriate judicial order. Payments made according to the terms of a deceased prize winner's beneficiary designation or similar form filed with the Department are effective by reason of the contract involved and this statute and are not to be considered as testamentary or subject to Chapter 3 (§ 64.1-45 et seq.) of Title 64.1. The Director shall be discharged of all liability upon payment of a prize pursuant to this section.

B. Investments of prize proceeds made by the Department to fund the payment of an annuitized prize are to be held in the name of the Department or the Commonwealth and not in the name of the prize winner. Any claim of a prize winner to a future payment remains inchoate until the date the payment is due under Department regulations.

C. *Except as provided in Chapter 13 (§ 63.1-249 et seq.) of Title 63.1 and this chapter, no lottery prize or installment thereof may be subject to garnishment or to a lien of any kind until such prize or installment thereof has been paid or distributed.*

D. *Whenever the Department or the Director is or may be named as a party in any proceeding instituted by or on behalf of one or more persons who claim ownership of a winning lottery ticket, prize, share or portion thereof for the purpose of determining the ownership or right to such ticket, prize, share or portion thereof, the Director may voluntarily pay or tender the prize, share or portion thereof into the circuit court where the action is filed, or may be ordered to do so by the court, and shall thereupon be discharged from all liability as between the claimants of such ticket, prize, share or portion thereof without regard to whether such payment was made voluntarily or pursuant to a court order.*

Nothing in this section shall be deemed to constitute a waiver of the sovereign immunity of the Commonwealth or to authorize any attachment, garnishment, or lien against the prize, share or portion thereof paid into the court except as permitted by subsection C.

CHAPTER 424

An Act to amend and reenact § 15.1-496.1 of the Code of Virginia, relating to appeals to board of zoning appeals.

Approved March 20, 1995

[S 1079]

Be it enacted by the General Assembly of Virginia:

1. That § 15.1-496.1 of the Code of Virginia is amended and reenacted as follows:

§ 15.1-496.1. Appeals to board.

A. An appeal to the board may be taken by any person aggrieved or by any officer, department, board or bureau of the county or municipality affected by any decision of the zoning administrator or from any order, requirement, decision or determination made by any other administrative officer in the administration or enforcement of this article or any ordinance adopted pursuant thereto. Notwithstanding any charter provision to the contrary, any written notice of a zoning violation or a written order of the zoning administrator dated on or after July 1, 1993, shall include a statement informing the recipient that he may have a right to appeal the notice of a zoning violation or a written order within thirty days in accordance with this section, and that the decision shall be final and unappealable if not appealed within thirty days. The appeal period shall not commence until such statement is given. Such appeal shall be taken within thirty days after the decision appealed from by filing with the zoning administrator, and with the board, a notice of appeal specifying the grounds thereof. The zoning administrator shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken.

B. An appeal shall stay all proceedings in furtherance of the action appealed from unless the zoning administrator certifies to the board that by reason of facts stated in the certificate a stay would in his opinion cause imminent peril to life or property, in which case proceedings shall not be stayed otherwise than by a restraining order granted by the board or by a court of record, on application and on notice to the zoning administrator and for good cause shown.

C. *In no event shall a written order, requirement, decision or determination made by the zoning administrator or other administrative officer be subject to change, modification or reversal by any zoning administrator or other administrative officer after sixty days have elapsed from the date of the written order, requirement, decision or determination where the person aggrieved has materially changed his position in good faith reliance on the action of the zoning administrator or other administrative officer unless it is proven that such written order, requirement, decision or determination was obtained through malfeasance of the zoning administrator or other administrative officer or through fraud. The sixty-day limitation period shall not apply in any case where, with the concurrence of the attorney for the governing body, modification is required to correct clerical or other nondiscretionary errors.*

2. That the provisions of this act shall only have prospective application.

CHAPTER 425

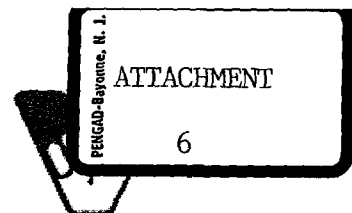
An Act to repeal the second enactment of Chapter 693 of the 1994 Acts of Assembly, relating to the study of certain documents of Virginia history.

Approved March 20, 1995

[S 1102]

Be it enacted by the General Assembly of Virginia:

1. That the second enactment of Chapter 693 of the 1994 Acts of Assembly is repealed.



Assignments Pursuant to Virginia Code § 58.1-4020.1 Registration Form

VIRGINIA LOTTERY

GENERAL GUIDELINES

All Entities wishing to accept assignments or make loans pursuant to *Virginia Code* § 58.1-4020.1 must provide the Lottery with the following:

- The assignee's or lender's standard information packet of materials given or sent to prospective assignors or borrowers.
- The assignee's or lender's standard form of agreement.
- The assignee's or lender's federal tax identification number.
- Where applicable, the assignee's or lender's most recent public financial statement.
- Registration fee in the amount of \$1,800 payable to the Virginia Lottery.
- An information sheet as detailed in the form below.
- An agreement that the assignee of a Lottery prize will (i) withhold from the purchase price to be paid to the assignor federal and state income taxes; (ii) in a manner and amount consistent with the procedures of the Virginia Lottery, pay such withheld taxes to the proper taxing authority; and (iii) maintain and file all required records, forms, and reports.
- An agreement that all contracts created pursuant to *Virginia Code* § 58.1-4020.1 shall be presented to the Circuit Court of the City of Richmond for endorsement and that the Virginia Lottery will be named as an interested party in such a proceeding and be given appropriate notice of the hearing required in subsection A of *Virginia Code* § 58.1-4020.1.
- A statement attesting that the assignee or lender has not previously, and is not currently, in violation of any provision of *Virginia Code* § 58.1-4013 or § 58.1-4020.1.

For any assignments subsequently presented to the Lottery for processing, there will be a fee charged of \$1,000 per assignment. The Lottery reserves the right to review and/or cancel a registration at any time if it determines that the assignee/lender has violated any provision of Title 58.1 of the Code of Virginia.

After all forms have been completed, please mail the required information and the registration fee to: Lottery Headquarters, 900 E. Main Street, Richmond, Virginia 23219, Attn: Frank Ferguson, General Counsel

INFORMATION SHEET (changes must be submitted in writing)

Legal Company Name:		Date:	
Company Address:		City:	State: Zip:
REGISTERED VIRGINIA AGENT			
Name:			
Phone:			
Fax:			
Email:			
Address:		City:	State: Zip:
ASSIGNEE'S OR LENDER'S CONTACT PERSON			
Name:			
Phone:			
Fax:			
Email:			
Address:		City:	State: Zip:

TAX WITHHOLDING AGREEMENT

In accordance with the Virginia Lottery's requirements for an entity seeking to register pursuant to *Virginia Code* § 58.1 - 4020.1 for the purpose of receiving assignments of Virginia Lottery prizes or accepting such prizes as collateral for loans, I, _____ (*Authorized agent of entity seeking registration*), agree on behalf of _____ (*Entity seeking registration*), ("Assignee") that Assignee will, as may be required by law, withhold from the proceeds to be paid to any assignor of a Virginia Lottery prize, purchased by and assigned to Assignee, federal and state income taxes. I agree further that Assignee will: withhold such taxes in a manner and amount as may be required by law and consistent with any procedures which may be required by the Virginia Lottery; timely pay such withheld taxes to the appropriate taxing authority; and maintain and file all required tax records, forms, and reports.

Signed: _____
(Authorized Agent)

Date: _____

COURT APPROVAL OF CONTRACTS

In accordance with the Virginia Lottery's requirements for an entity seeking to register pursuant to *Virginia Code* § 58.1 - 4020.1 for the purpose of receiving assignments of Virginia Lottery prizes or accepting such prizes as collateral for loans, I, _____ (*Authorized agent of entity seeking registration*), agree on behalf of _____ (*Entity seeking registration*), ("Assignee/Lender") that Assignee/Lender will present all contracts for assignments or loans proposed to be made pursuant to *Virginia Code* § 58.1 - 4020.1 to the Circuit Court of the City of Richmond, Virginia. I further agree that the Virginia Lottery will be named as an interested party and given notice of all proceedings to be held in such court pursuant to subsection A of *Virginia Code* § 58.1 - 4020.1.

Signed: _____
(Authorized Agent)

Date: _____

CERTIFICATION OF COMPLIANCE WITH LAW

In accordance with the Virginia Lottery's requirements for an entity seeking to register pursuant to *Virginia Code* § 58.1 - 4020.1 for the purpose of receiving assignments of Virginia Lottery prizes or accepting such prizes as collateral for loans, I, _____ (*Authorized agent of entity seeking registration*), certify on behalf of _____ (*Entity seeking registration*), ("Assignee/Lender") that Assignee/Lender is not now, and has not previously been, in violation of any provision of *Virginia Code* §§ 58.1 - 4013 or 58.1 - 4020.1.

Signed: _____
(Authorized Agent)

Date: _____

**ENTITIES REGISTERED TO
RECEIVE ASSIGNMENTS**

ENCORE/LRCO
1818 S. Australian Avenue, Suite 450
West Palm Beach, FL 33409

SENECA ONE FINANCE
4416 East West Highway, Suite 410
Bethesda, MD 20814

SENECA ONE, LLC
7920 Norfolk Avenue, Suite 300
Bethesda, MD 20814

STONE STREET CAPITAL, INC.
7316 Wisconsin Avenue, Suite 500
Bethesda, MD 20814

LUMP SUM CAPITAL, LLC
7920 Norfolk Avenue, Suite 300
Bethesda, MD 20814

TOWER LENDING, INC.
1015 10th Street
Lake Park, FL 33403

COMET FINANCIAL CORPORATION
100 Sheppard Avenue East, Suite 720
Toronto, Ontario M2N 6N5
CANADA

NAME: Jeffrey A. Berry
DATE WON LOTTERY: September 22, 1990
AMOUNT WON: \$1,449,025.00
ANNUAL AMOUNT RECEIVED: \$72,500.00
AMOUNT PAID OUT BY LOTTERY: \$1,014,025.00
AMOUNT ASSIGNED: \$435,000.00 pre tax
COURT DATE: January 30, 2004
LUMP SUM TO RESPONDENT: \$297,750.00
ASSIGNMENT COMPANY: Encore

NAME: Linda W. Hasik
DATE WON LOTTERY: March 31, 1990
AMOUNT WON: \$2,789,575.25
ANNUAL AMOUNT RECEIVED: \$139,500.00
AMOUNT PAID OUT BY LOTTERY: \$1,952,575.25
AMOUNT ASSIGNED: \$837,000.00 pre tax
COURT DATE: August 15, 2003
LUMP SUM TO RESPONDENT: \$627,000.00
ASSIGNMENT COMPANY: Encore

NAME: Jacqueline S. Hunt
DATE WON LOTTERY: October 22, 1994
AMOUNT WON: \$2,841,993.80
ANNUAL AMOUNT RECEIVED: \$142,000.00
AMOUNT PAID OUT BY LOTTERY: \$1,279,993.80
AMOUNT ASSIGNED: \$1,562,000.00 pre tax
COURT DATE: August 15, 2003
LUMP SUM TO RESPONDENT: \$1,105,000.00
ASSIGNMENT COMPANY: Encore

NAME: James L. Hunt
DATE WON LOTTERY: October 22, 1994
AMOUNT WON: \$2,841,993.80
ANNUAL AMOUNT RECEIVED: \$142,000.00
AMOUNT PAID OUT BY LOTTERY: \$1,279,993.80
AMOUNT ASSIGNED: \$1,562,000.00 pre tax
COURT DATE: August 15, 2003
LUMP SUM TO RESPONDENT: \$1,105,000.00
ASSIGNMENT COMPANY: Encore

NAME: Hattie E. Kemmer
DATE WON LOTTERY: August 18, 1990
AMOUNT WON: \$350,451.15
ANNUAL AMOUNT RECEIVED: \$17,520.83
AMOUNT PAID OUT BY LOTTERY: \$245,326.17
AMOUNT ASSIGNED: \$105,124.98 pre tax
COURT DATE: March 25, 2004
LUMP SUM TO RESPONDENT: \$69,604.00
ASSIGNMENT COMPANY: Encore

NAME: Marcus L. McBryde
DATE WON LOTTERY: February 16, 2000
AMOUNT WON: \$2,885,223.07
ANNUAL AMOUNT RECEIVED: \$115,500.00
AMOUNT PAID OUT BY LOTTERY: \$459,733.07
AMOUNT ASSIGNED: \$1,200,000.00 pre tax-Portion
COURT DATE: October 9, 2003
LUMP SUM TO RESPONDENT: \$600,000.00
ASSIGNMENT COMPANY: Encore

NAME: Jody L. Taylor
DATE WON LOTTERY: December 26, 1992
AMOUNT WON: \$4,399,573.80
ANNUAL AMOUNT RECEIVED: \$220,000.00
AMOUNT PAID OUT BY LOTTERY: \$2,639,573.80
AMOUNT ASSIGNED: \$1,760,000.00 pre tax
COURT DATE: November 6, 2003
LUMP SUM TO RESPONDENT: \$1,184,225.00
ASSIGNMENT COMPANY: Encore

NAME: Barbara J. & Carl W. Volz, Jr.
DATE WON LOTTERY: April 6, 1991
AMOUNT WON: \$7,723,755.18
ANNUAL AMOUNT RECEIVED: \$386,000.00
AMOUNT PAID OUT BY LOTTERY: \$5,021,755.18
AMOUNT ASSIGNED: \$2,702,000.00 pre tax
COURT DATE: November 6, 2003
LUMP SUM TO RESPONDENT: \$2,000,000.00
ASSIGNMENT COMPANY: Encore

NAME: Keith A. Herring
DATE WON LOTTERY: August 18, 1990
AMOUNT WON: \$801,047.38
ANNUAL AMOUNT RECEIVED: \$40,048.42
AMOUNT PAID OUT BY LOTTERY: \$560,756.86
AMOUNT ASSIGNED: \$240,290.52 pre tax
COURT DATE: January 23, 2004
LUMP SUM TO RESPONDENT: \$160,113.00
ASSIGNMENT COMPANY: Encore

NAME: Beatrice Spencer
DATE WON LOTTERY: June 14, 1995
AMOUNT WON: \$851,783.25
ANNUAL AMOUNT RECEIVED: \$42,500.00
AMOUNT PAID OUT BY LOTTERY: \$426,783.25
AMOUNT ASSIGNED: \$425,000.00 pre tax
COURT DATE: July 6, 2004
LUMP SUM TO RESPONDENT: \$258,500.00
ASSIGNMENT COMPANY: Lump Sum Capital, LLC

NAME: Kathryn Ford
DATE WON LOTTERY: March 19, 1994
AMOUNT WON: \$1,000,000.00
ANNUAL AMOUNT RECEIVED: \$50,000.00
AMOUNT PAID OUT BY LOTTERY: \$500,000.00
AMOUNT ASSIGNED: \$250,000.00 pre tax-Portion
COURT DATE: August 8, 2003
LUMP SUM TO RESPONDENT: \$137,217.00
ASSIGNMENT COMPANY: Seneca One Finance

NAME: Raymond D. Haney
DATE WON LOTTERY: November 28, 1992
AMOUNT WON: \$2,842,320.23
ANNUAL AMOUNT RECEIVED: \$142,100.00
AMOUNT PAID OUT BY LOTTERY: \$1,563,420.23
AMOUNT ASSIGNED: \$1,278,900.00 pre tax-Portion
COURT DATE: October 3, 2003
LUMP SUM TO RESPONDENT: \$771,102.00
ASSIGNMENT COMPANY: Seneca One Finance

NAME: Pilar D. Brigola
DATE WON LOTTERY: October 20, 1993
AMOUNT WON: \$500,000.00
ANNUAL AMOUNT RECEIVED: \$25,000.00
AMOUNT PAID OUT BY LOTTERY: \$275,000.00
AMOUNT ASSIGNED: \$225,000.00 pre tax
COURT DATE: February 26, 2004
LUMP SUM TO RESPONDENT: \$124,260.00
ASSIGNMENT COMPANY: Seneca One, LLC

NAME: Susan C. Barnes
DATE WON LOTTERY: March 8, 1995
AMOUNT WON: \$2,310,652.82
ANNUAL AMOUNT RECEIVED: \$115,500.00
AMOUNT PAID OUT BY LOTTERY: \$1,040,152.82
AMOUNT ASSIGNED: \$870,500.00 pre tax-Portion
COURT DATE: December 4, 2003
LUMP SUM TO RESPONDENT: \$429,393.83
ASSIGNMENT COMPANY: Seneca One Finance

NAME: Harvey Wayne Eagle
(Share only)
(Estate of Julius Hendren)
DATE WON LOTTERY: October 11, 1995
AMOUNT WON: \$676,500.00
ANNUAL AMOUNT RECEIVED: \$56,375.00
AMOUNT PAID OUT BY LOTTERY: \$--0--
AMOUNT ASSIGNED: \$676,500.00 pre tax
COURT DATE: January 7, 2004
LUMP SUM TO RESPONDENT: \$330,448.54
ASSIGNMENT COMPANY: Stone Street Capital, Inc.

NAME: Gladys C. Graves
DATE WON LOTTERY: October 5, 1991
AMOUNT WON: \$7,762,306.28
ANNUAL AMOUNT RECEIVED: \$388,031.60
AMOUNT PAID OUT BY LOTTERY: \$4,658,053.48
AMOUNT ASSIGNED: \$3,104,252.80 pre tax
COURT DATE: November 13, 2003
LUMP SUM TO RESPONDENT: \$2,154,258.00
ASSIGNMENT COMPANY: Stone Street Capital, Inc.

NAME: Anita L. Land
(Estate of Bobby Land)
DATE WON LOTTERY: February 10, 1993
AMOUNT WON: \$175,539.87—Beneficiary \$
ANNUAL AMOUNT RECEIVED: \$15,958.17
AMOUNT PAID OUT BY LOTTERY: \$31,916.34
AMOUNT ASSIGNED: 143,623.53 pre tax
COURT DATE: January 7, 2004
LUMP SUM TO RESPONDENT: \$85,142.27
ASSIGNMENT COMPANY: Stone Street Capital, Inc.

NAME: Lorena R. Palermo
DATE WON LOTTERY: February 17, 1990
AMOUNT WON: \$3,540,484.51
ANNUAL AMOUNT RECEIVED: \$177,000.00 (1/2 of total)
AMOUNT PAID OUT BY LOTTERY: \$2,478,484.51
AMOUNT ASSIGNED: \$1,062,000.00 pre tax
COURT DATE: January 7, 2004
LUMP SUM TO RESPONDENT: \$746,000.00 (Her share –
divorce split)
ASSIGNMENT COMPANY: Stone Street Capital, Inc.

NAME: Kerry Slade
DATE WON LOTTERY: October 5, 1991
AMOUNT WON: \$804,032.39 (Divorced \$)
ANNUAL AMOUNT RECEIVED: \$35,989.58
AMOUNT PAID OUT BY LOTTERY: \$552,105.33
AMOUNT ASSIGNED: \$251,927.06 pre tax
COURT DATE: December 15, 2003
LUMP SUM TO RESPONDENT: \$174,010.42
ASSIGNMENT COMPANY: Stone Street Capital, Inc.

NAME: Suzanne Sabb-Goodrich
(Estate of Charles W. Sabb. Jr.)
DATE WON LOTTERY: May 15, 1994
AMOUNT WON: \$400,000.00 Beneficiary Share
ANNUAL AMOUNT RECEIVED: \$25,000.00
AMOUNT PAID OUT BY LOTTERY: \$150,000.00
AMOUNT ASSIGNED: \$250,000.00 pre tax
COURT DATE: January 7, 2004
LUMP SUM TO RESPONDENT: \$142,342.28
ASSIGNMENT COMPANY: Stone Street Capital, Inc.

NAME:	Carmen Wright
DATE WON LOTTERY:	November 15, 1992
AMOUNT WON:	\$2,842,320.23
ANNUAL AMOUNT RECEIVED:	\$32,500.00
	\$142,100.00 *
AMOUNT PAID OUT BY LOTTERY:	\$1,705,520.23
AMOUNT ASSIGNED:	\$260,000.00 pre tax
COURT DATE:	April 2, 2004
LUMP SUM TO RESPONDENT:	\$159,500.00
ASSIGNMENT COMPANY:	Tower Lending, Inc.

* Annual payment amount of \$142,100.00 reduced to \$32,500.00 as the result of an unauthorized assignment made prior to passage of House Bill 1564

