

**As Introduced**

**124th General Assembly  
Regular Session  
2001-2002**

**S. B. No. 226**

**SENATORS Blessing, Robert Gardner, Goodman, Fingerhut, DiDonato,  
Mallory**

---

**A B I L L**

To amend sections 1309.109 and 3770.07 and to enact 1  
sections 3770.10 to 3770.16 of the Revised Code to 2  
permit the transfer of a lottery prize award upon 3  
the prior approval of a court, to establish 4  
procedures for application for such approval, and 5  
to require each transferee to obtain a certificate 6  
of registration from the Director of Commerce. 7

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That sections 1309.109 and 3770.07 be amended and 8  
sections 3770.10, 3770.11, 3770.12, 3770.13, 3770.14, 3770.15, and 9  
3770.16 of the Revised Code be enacted to read as follows: 10

**Sec. 1309.109.** (A) Except as otherwise provided in divisions 11  
(C) and (D) of this section, this chapter applies to: 12

(1) A transaction, regardless of its form, that creates a 13  
security interest in personal property or fixtures by contract; 14

(2) An agricultural lien; 15

(3) A sale of accounts, chattel paper, payment intangibles, 16  
or promissory notes; 17

(4) A consignment; 18

(5) A security interest arising under section 1302.42, 19  
1302.49, division (C) of section 1302.85, or division (E) of 20  
section 1310.54 of the Revised Code, as provided in section 21  
1309.110 of the Revised Code; and 22

(6) A security interest arising under section 1304.20 or 23  
1305.18 of the Revised Code. 24

(B) The application of this chapter to a security interest in 25  
a secured obligation is not affected by the fact that the 26  
obligation is itself secured by a transaction or interest to which 27  
this chapter does not apply. 28

(C) This chapter does not apply to the extent that: 29

(1) A statute, regulation, or treaty of the United States 30  
preempts this chapter; or 31

(2) The rights of a transferee beneficiary or nominated 32  
person under a letter of credit are independent and superior under 33  
section 1305.13 of the Revised Code. 34

(D) This chapter does not apply to: 35

(1) A landlord's lien, other than an agricultural lien; 36

(2)(a) A lien, not enumerated in division (D)(2) of this 37  
section and other than an agricultural lien, given by statute or 38  
other rule of law for services or materials, including any lien 39  
created under any provision of Chapter 926., sections 1311.55 to 40  
1311.57, sections 1311.71 to 1311.80, section 1701.66, or Chapter 41  
4585. of the Revised Code; 42

(b) Notwithstanding division (D)(2)(a) of this section, 43  
section 1309.333 of the Revised Code applies with respect to 44  
priority of the lien. 45

(3) An assignment of a claim for wages, salary, or other 46  
compensation of an employee; 47

(4) A sale of accounts, chattel paper, payment intangibles, or promissory notes as part of a sale of the business out of which they arose;	48 49 50
(5) An assignment of accounts, chattel paper, payment intangibles, or promissory notes that is for the purpose of collection only;	51 52 53
(6) An assignment of a right to payment under a contract to an assignee that is also obligated to perform under the contract;	54 55
(7) An assignment of a single account, payment intangible, or promissory note to an assignee in full or partial satisfaction of a preexisting indebtedness;	56 57 58
(8) A transfer of an interest in or an assignment of a claim under a policy of insurance, other than an assignment by or to a health-care provider of a health-care-insurance receivable and any subsequent assignment of the right to payment, but sections 1309.315 and 1309.322 of the Revised Code apply with respect to proceeds and priorities in proceeds;	59 60 61 62 63 64
(9) An assignment of a right represented by a judgment, other than a judgment taken on a right to payment that was collateral;	65 66 67
(10) A right of recoupment or set-off, but:	68
(a) Section 1309.340 of the Revised Code applies with respect to the effectiveness of rights of recoupment or set-off against deposit accounts; and	69 70 71
(b) Section 1309.404 of the Revised Code applies with respect to defenses or claims of an account debtor.	72 73
(11) The creation or transfer of an interest in or lien on real property, including a lease or rents under a lease, except to the extent that provision is made for:	74 75 76
(a) Liens on real property in sections 1309.203 and 1309.308	77

of the Revised Code;	78
(b) Fixtures in section 1309.334 of the Revised Code;	79
(c) Fixture filings in sections 1309.501, 1309.502, 1309.512, 1309.516, and 1309.519 of the Revised Code; and	80 81
(d) Security agreements covering personal and real property in section 1309.604 of the Revised Code.	82 83
(12) An assignment of a claim arising in tort, other than a commercial tort claim, but sections 1309.315 and 1309.322 of the Revised Code apply with respect to proceeds and priorities in proceeds;	84 85 86 87
(13) An assignment of a deposit account in a consumer transaction, but sections 1309.315 and 1309.322 of the Revised Code apply with respect to proceeds and priorities in proceeds; or	88 89 90
(14) A transfer by a government, state, or governmental unit.	91
<u>(E) The granting of a security interest in all or any part of a lottery prize award by a prize winner for consideration is also subject to sections 3770.10 to 3770.16 of the Revised Code.</u>	92 93 94
<b>Sec. 3770.07.</b> (A)(1) Lottery prize awards shall be claimed by the holder of the winning lottery ticket, or by the executor or administrator, or the trustee of a trust, of the estate of a deceased holder of a winning ticket, in a manner to be determined by the state lottery commission, within one hundred eighty days after the date on which such prize award was announced if the lottery game is an on-line game, and within one hundred eighty days after the close of the game if the lottery game is an instant game. Except as otherwise provided in division (B) of this section, if no valid claim to the prize award is made within the prescribed period, the prize money or the cost of goods and services awarded as prizes, or if such goods or services are resold by the commission, the proceeds from such sale, shall be	95 96 97 98 99 100 101 102 103 104 105 106 107

returned to the state lottery fund and distributed in accordance 108  
with section 3770.06 of the Revised Code. 109

(2) If a person entitled to a prize award is under eighteen 110  
years of age, or is under some other legal disability, and the 111  
prize money or the cost of goods or services awarded as a prize 112  
exceeds one thousand dollars, the director shall order that 113  
payment be made to the order of the legal guardian of such winning 114  
ticket holder. If the amount of the prize money or the cost of 115  
goods or services awarded as a prize is one thousand dollars or 116  
less, the director may order that payment be made to the order of 117  
the adult member, if any, of such winning ticket holder's family 118  
legally responsible for the care of such winning person. 119

(3) No right of any person to a prize award shall be the 120  
subject of a security interest or used as collateral, except as 121  
provided in sections 3770.10 to 3770.14 of the Revised Code. 122

(4) No right of any person to a prize award shall be 123  
assignable, or subject to garnishment, attachment, execution, 124  
withholding, or deduction, except as follows: as provided in 125  
sections 3119.80, 3119.81, 3121.02, 3121.03, and 3123.06 of the 126  
Revised Code; when the payment is to be made to the executor or 127  
administrator or the trustee of a trust of the estate of a winning 128  
ticket holder; when the award of a prize is disputed, any person 129  
may be awarded a prize award to which another has claimed title, 130  
pursuant to the order of a court of competent jurisdiction; ~~or~~ 131  
when the director is to make a payment pursuant to section 132  
3770.071 of the Revised Code; or as provided in sections 3770.10 133  
to 3770.14 of the Revised Code. 134

The commission shall adopt rules pursuant to section 3770.03 135  
of the Revised Code concerning the payment of prize awards upon 136  
the death of a prize winner. Upon the death of a prize winner, the 137  
remainder of the prize winner's prize award, to the extent it is 138  
not subject to a transfer agreement under sections 3770.10 to 139

3770.14 of the Revised Code, may be paid to the executor, 140  
administrator, or trustee in the form of a discounted lump sum 141  
cash settlement. 142

(5) No lottery prize award shall be awarded to or for any 143  
officer or employee of the state lottery commission, any officer 144  
or employee of the auditor of state actively coordinating and 145  
certifying commission drawings, or any blood relative or spouse of 146  
such officer or employee of the commission or auditor of state 147  
living as a member of such officer's or employee's household, nor 148  
shall any such employee, blood relative, or spouse attempt to 149  
claim a lottery prize award. 150

(6) The director may prohibit vendors to the commission and 151  
their employees from being awarded a lottery prize award. 152

(7) Upon the payment of prize awards pursuant to this section 153  
the director and the commission are discharged from all further 154  
liability therefor. 155

(B) The commission may adopt rules governing the disbursement 156  
of unclaimed prize awards as all or part of the prize award in a 157  
lottery and may, pursuant to those rules, conduct the lottery and 158  
disburse any such unclaimed prize awards. Any lottery in which all 159  
or any part of the prize award is paid from unclaimed prize awards 160  
shall be conducted in accordance with all of the other 161  
requirements of this chapter, including, but not limited to, the 162  
time and proof requirements for claiming awards and the 163  
disposition of unclaimed prize awards when the prescribed period 164  
for claiming the award has passed. A prize award or any part of a 165  
prize award that is paid from an unclaimed prize award shall not 166  
be reapplied toward the satisfaction of the requirement of 167  
division (A) of section 3770.06 of the Revised Code that at least 168  
fifty per cent of the total revenues from ticket sales be 169  
disbursed for monetary prize awards, if such unclaimed prize award 170  
was previously applied toward the satisfaction of that 171

requirement. On or before the last day of January and July each  
year, the commission shall report to the general assembly the  
gross sales and net profits the commission obtained from the  
unclaimed prize awards in lotteries conducted pursuant to this  
division during the preceding two calendar quarters, including the  
amount of money produced by the games funded by the unclaimed  
prize awards and the total revenue accruing to the state from the  
prize award lotteries conducted pursuant to this division.

172  
173  
174  
175  
176  
177  
178  
179

There is hereby established in the state treasury the  
unclaimed lottery prizes fund, to which all unclaimed prize awards  
shall be transferred. Any interest ~~which~~ that accrues on the  
amounts in the fund shall become a part of the fund and shall be  
subject to any rules adopted by the commission governing the  
disbursement of unclaimed prize awards.

180  
181  
182  
183  
184  
185

Sec. 3770.10. As used in sections 3770.10 to 3770.16 of the  
Revised Code:

186  
187

(A) "Court of competent jurisdiction" means the court of  
common pleas of Franklin county, the court of common pleas of the  
county in which the prize winner resides, or a federal court  
having jurisdiction over the lottery prize award.

188  
189  
190  
191

(B) "Discounted present value" means the present value of the  
future payments of a lottery prize award that is determined by  
discounting those payments to the present, using the most recently  
published applicable federal rate for determining the present  
value of an annuity as issued by the United States internal  
revenue service and assuming daily compounding.

192  
193  
194  
195  
196  
197

(C) "Independent professional advice" means the advice of an  
attorney, a certified public accountant, an actuary, or any other  
licensed professional adviser if all of the following apply:

198  
199  
200

(1) The prize winner has engaged the services of the licensed

201

professional adviser to render advice concerning the legal and other implications of a transfer of the lottery prize award. 202  
203  
204

(2) The licensed professional adviser is not affiliated in any manner with or compensated in any manner by the transferee of the lottery prize award. 205  
206  
207

(3) The compensation of the licensed professional adviser is not affected by whether or not a transfer of a lottery prize award occurs. 208  
209  
210

(D) "Prize winner" means any person that holds the right to receive all or any part of a lottery prize award. 211  
212

(E) "Transfer" means a grant of a security interest in, or a sale, assignment, pledge, hypothecation, or any other form of alienation or encumbrance of, all or any part of a lottery prize award by a prize winner for consideration. 213  
214  
215  
216

(F) "Transfer agreement" means the agreement that provides for the transfer of all or any part of a lottery prize award from a prize winner to a transferee. 217  
218  
219

(G) "Transferee" means a party acquiring or proposing to acquire all or any part of a lottery prize award through a transfer. 220  
221  
222

**Sec. 3770.11. Prior to the date on which a prize winner becomes obligated under a transfer agreement, the transferee shall provide to the prize winner a disclosure statement, in boldface type of the minimum size of fourteen points, setting forth all of the following:** 224  
225  
226  
227  
228

(A) The amounts and due dates of the lottery prize award payments that would be transferred under the transfer agreement; 229  
230

(B) The aggregate amount of the lottery prize award payments 231



<u>described in division (A) of this section;</u>	232
<u>(C) The discounted present value of the lottery prize award</u>	233
<u>payments described in division (A) of this section, calculated as</u>	234
<u>of the date the disclosure statement is provided to the prize</u>	235
<u>winner, and the amount of the applicable federal rate used in</u>	236
<u>determining the discounted present value;</u>	237
<u>(D) The gross amount payable to the prize winner in exchange</u>	238
<u>for or as consideration for the transfer of the lottery prize</u>	239
<u>award payments described in division (A) of this section;</u>	240
<u>(E) An itemized listing of all brokers' commissions, service</u>	241
<u>charges, application fees, processing fees, closing costs, filing</u>	242
<u>fees, administrative fees, legal fees, notary fees, and other</u>	243
<u>commissions, fees, costs, expenses, and charges payable by the</u>	244
<u>prize winner or deductible from the gross amount otherwise payable</u>	245
<u>to the prize winner as described in division (D) of this section;</u>	246
<u>(F) The net amount payable to the prize winner after</u>	247
<u>deduction from the gross amount payable to the prize winner as</u>	248
<u>described in division (D) of this section of all commissions,</u>	249
<u>fees, costs, expenses, and charges described in division (E) of</u>	250
<u>this section;</u>	251
<u>(G) The quotient, expressed as a percentage, obtained by</u>	252
<u>dividing the net amount payable to the prize winner as described</u>	253
<u>in division (F) of this section by the discounted present value of</u>	254
<u>the payments described in division (C) of this section.</u>	255
<b><u>Sec. 3770.12. A court of competent jurisdiction may approve a</u></b>	257
<b><u>transfer of a lottery prize award only in a final order that is</u></b>	258
<b><u>based on the express findings of the court, and the express</u></b>	259
<b><u>findings shall include all of the following:</u></b>	260
<u>(A) The transferee has provided to the prize winner a</u>	261
<u>disclosure statement that complies with section 3770.11 of the</u>	262

Revised Code, and the prize winner has confirmed the prize 263  
winner's receipt of the disclosure statement, as evidenced by the 264  
prize winner's notarized signature on a copy of the disclosure 265  
statement. 266

(B) The prize winner has established that the transfer is 267  
fair and reasonable and in the best interests of the prize winner. 268

(C) The prize winner has received independent professional 269  
advice regarding the legal and other implications of the transfer. 270

(D) The transferee has given written notice of the 271  
transferee's name, address, and taxpayer identification number to 272  
the state lottery commission and has filed a copy of that notice 273  
with the court in which the application for approval of the 274  
transfer was filed. 275

(E) The transferee holds a valid certificate of registration 276  
issued under section 3770.15 of the Revised Code. 277

(F) The transfer complies with all applicable requirements of 278  
the Revised Code and does not contravene any applicable law. 279

(G) The transfer does not include or cover the amounts of the 280  
lottery prize award that are required to be withheld or deducted 281  
pursuant to section 3119.80, 3119.81, 3121.02, 3121.03, 3123.06, 282  
3770.071, or 3770.072 of the Revised Code. 283

(H) Any amounts described in division (G) of this section 284  
that are required to be withheld or deducted, as of the date of 285  
the court order, will be offset by the commission first against 286  
remaining payments due the prize winner and then against payments 287  
due the transferee. 288

**Sec. 3770.13.** (A) A person shall file an application under 290  
sections 3770.10 to 3770.14 of the Revised Code for the approval 291  
in advance of a transfer of a lottery prize award in a court of 292  
competent jurisdiction. 293

(B) The following procedures shall apply to an application 294  
for the approval in advance by a court of a transfer of a lottery 295  
prize award under division (A) of this section: 296

(1) Upon the filing of the application, the court shall set a 297  
date and time for a hearing on the application and shall notify 298  
the transferee of the date, time, and place of the hearing. 299

(2) Not less than fourteen days prior to the date set by the 300  
court for the hearing on an application filed pursuant to this 301  
section, the transferee shall file with the court and shall serve 302  
on the court and on the state lottery commission, in the manner 303  
prescribed in the Rules of Civil Procedure for the service of 304  
process, a notice of the proposed transfer and the application for 305  
its approval in advance. The notice shall include all of the 306  
following: 307

(a) A copy of the application; 308

(b) A copy of the transfer agreement; 309

(c) A copy of the disclosure statement provided by the 310  
transferee pursuant to section 3770.11 of the Revised Code and 311  
signed by the prize winner pursuant to division (A) of section 312  
3770.12 of the Revised Code; 313

(d) Notification of the date, time, and place of the hearing 314  
on the application. 315

(3) The commission shall not be required to appear in or be 316  
named as a party to a hearing on the application, but may 317  
intervene as of right in the proceeding. 318

(4) At the conclusion of the hearing on an application under 319  
this section, the court may grant or deny the approval of the 320  
transfer. The court shall enter its order accordingly. If the 321  
court grants the approval of the transfer, it shall include in its 322  
order all of the express findings specified in section 3770.12 of 323

the Revised Code. If the court denies the approval of the 324  
transfer, it shall include in its order the reasons for the 325  
denial. 326

(5) An order of the court made under division (B)(4) of this 327  
section is a final and appealable order. 328

**Sec. 3770.14.** (A) Upon receipt of a court order issued under 330  
section 3770.12 of the Revised Code, the transferee shall provide 331  
a certified copy of the court order to the director of the state 332  
lottery commission. Not later than ten days after receipt of the 333  
certified copy of the court order, the director shall acknowledge 334  
to the transferee in writing the commission's intent to comply 335  
with the court order in making future payments. 336

(B) The director shall make payments of the lottery prize 337  
award in accordance with the terms specified in the certified copy 338  
of the court order. The director may charge a processing fee, in 339  
an amount determined by the commission by rule pursuant to section 340  
3770.03 of the Revised Code, to cover any direct or indirect costs 341  
associated with making the prize award payments in accordance with 342  
the terms specified in the certified copy of the court order. 343

(C) Upon payment of the lottery prize award pursuant to this 344  
section, the director and the commission are discharged from all 345  
further liability therefor. 346

**Sec. 3770.15.** (A) Before a transferee may enter into a 347  
transfer agreement with a prize winner for the transfer of all or 348  
any part of a lottery prize award, the transferee shall submit an 349  
application for a certificate of registration, along with a 350  
registration fee of five hundred dollars, to the director of 351  
commerce. The application shall be on a form prescribed by the 352  
director and shall set forth all of the following: 353

(1) The name and business address of the transferee and any 354

of the following that applies: 355

(a) If the transferee is a general partnership, the names and residence addresses of all of the partners; 356  
357

(b) If the transferee is a limited partnership that existed prior to July 1, 1994, and that has not registered with the secretary of state pursuant to Chapter 1782. of the Revised Code, the name of the Ohio county in which its certificate of limited partnership or application for registration as a foreign limited partnership is filed; 358  
359  
360  
361  
362  
363

(c) If the transferee is a limited partnership to which division (A)(1)(b) of this section does not apply, or is a corporation, professional association, limited liability company, or other entity, the form of the entity and the state under the laws of which it was formed. 364  
365  
366  
367  
368

(2) The general nature of the business conducted by the transferee; 369  
370

(3) The length of time the transferee has conducted that business; 371  
372

(4) The signature of the transferee or of an authorized representative of the transferee. 373  
374

(B) Upon compliance with division (A) of this section, the director shall issue a certificate of registration to the transferee. Each certificate shall remain in force for two years from the date of issuance. After that time, a renewal certificate may be issued upon compliance with division (A) of this section. 375  
376  
377  
378  
379

(C) Fees collected under this section shall be paid into the state treasury to the credit of the division of administration fund created under section 121.08 of the Revised Code. 380  
381  
382

**Sec. 3770.16. The transfer of all or any part of a lottery** 383

prize award under sections 3770.10 to 3770.14 of the Revised Code 384  
is also subject to the applicable provisions of Chapter 1309. of 385  
the Revised Code. 386

**Section 2.** That existing sections 1309.109 and 3770.07 of the 387  
Revised Code are hereby repealed. 388