

As Reported by the Senate Ways and Means Committee

124th General Assembly

Regular Session

2001-2002

Sub. S. B. No. 226

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Mallory, Spada, Roberts**

A B I L L

To amend sections 1309.109 and 3770.07 and to enact 1
sections 3770.10 to 3770.15 of the Revised Code to 2
permit the transfer of a lottery prize award upon 3
the prior approval of a court and to establish 4
procedures for application for such approval. 5

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

Section 1. That sections 1309.109 and 3770.07 be amended and 6
sections 3770.10, 3770.11, 3770.12, 3770.13, 3770.14, and 3770.15 7
of the Revised Code be enacted to read as follows: 8

Sec. 1309.109. (A) Except as otherwise provided in divisions 9
(C) and (D) of this section, this chapter applies to: 10

(1) A transaction, regardless of its form, that creates a 11
security interest in personal property or fixtures by contract; 12

(2) An agricultural lien; 13

(3) A sale of accounts, chattel paper, payment intangibles, 14
or promissory notes; 15

(4) A consignment; 16

(5) A security interest arising under section 1302.42, 17
1302.49, division (C) of section 1302.85, or division (E) of 18

section 1310.54 of the Revised Code, as provided in section 19
1309.110 of the Revised Code; and 20

(6) A security interest arising under section 1304.20 or 21
1305.18 of the Revised Code. 22

(B) The application of this chapter to a security interest in 23
a secured obligation is not affected by the fact that the 24
obligation is itself secured by a transaction or interest to which 25
this chapter does not apply. 26

(C) This chapter does not apply to the extent that: 27

(1) A statute, regulation, or treaty of the United States 28
preempts this chapter; or 29

(2) The rights of a transferee beneficiary or nominated 30
person under a letter of credit are independent and superior under 31
section 1305.13 of the Revised Code. 32

(D) This chapter does not apply to: 33

(1) A landlord's lien, other than an agricultural lien; 34

(2)(a) A lien, not enumerated in division (D)(2) of this 35
section and other than an agricultural lien, given by statute or 36
other rule of law for services or materials, including any lien 37
created under any provision of Chapter 926., sections 1311.55 to 38
1311.57, sections 1311.71 to 1311.80, section 1701.66, or Chapter 39
4585. of the Revised Code; 40

(b) Notwithstanding division (D)(2)(a) of this section, 41
section 1309.333 of the Revised Code applies with respect to 42
priority of the lien. 43

(3) An assignment of a claim for wages, salary, or other 44
compensation of an employee; 45

(4) A sale of accounts, chattel paper, payment intangibles, 46
or promissory notes as part of a sale of the business out of which 47

they arose;	48
(5) An assignment of accounts, chattel paper, payment intangibles, or promissory notes that is for the purpose of collection only;	49 50 51
(6) An assignment of a right to payment under a contract to an assignee that is also obligated to perform under the contract;	52 53
(7) An assignment of a single account, payment intangible, or promissory note to an assignee in full or partial satisfaction of a preexisting indebtedness;	54 55 56
(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;	57 58 59 60 61 62
(9) An assignment of a right represented by a judgment, other than a judgment taken on a right to payment that was collateral;	63 64 65
(10) A right of recoupment or set-off, but:	66
(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	67 68 69
(b) Section 1309.404 of the Revised Code applies with respect to defenses or claims of an account debtor.	70 71
(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:	72 73 74
(a) Liens on real property in sections 1309.203 and 1309.308 of the Revised Code;	75 76

(b) Fixtures in section 1309.334 of the Revised Code;	77
(c) Fixture filings in sections 1309.501, 1309.502, 1309.512, 1309.516, and 1309.519 of the Revised Code; and	78 79
(d) Security agreements covering personal and real property in section 1309.604 of the Revised Code.	80 81
(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;	82 83 84 85
(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	86 87 88
(14) A transfer by a government, state, or governmental unit.	89
<u>(E) The sale, pledge, assignment, or granting of a security interest in all or any part of a lottery prize award for consideration is also subject to sections 3770.10 to 3770.15 of the Revised Code.</u>	90 91 92 93
Sec. 3770.07. (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	94 95 96 97 98 99 100 101 102 103 104 105 106

returned to the state lottery fund and distributed in accordance 107
with section 3770.06 of the Revised Code. 108

(2) If a person entitled to a prize award is under eighteen 109
years of age, or is under some other legal disability, and the 110
prize money or the cost of goods or services awarded as a prize 111
exceeds one thousand dollars, the director shall order that 112
payment be made to the order of the legal guardian of such winning 113
ticket holder. If the amount of the prize money or the cost of 114
goods or services awarded as a prize is one thousand dollars or 115
less, the director may order that payment be made to the order of 116
the adult member, if any, of such winning ticket holder's family 117
legally responsible for the care of such winning person. 118

(3) No right of any person to a prize award shall be the 119
subject of a security interest or used as collateral, except as 120
provided in sections 3770.10 to 3770.14 of the Revised Code. 121

(4)(a) No right of any person to a prize award shall be 122
assignable, or subject to garnishment, attachment, execution, 123
withholding, or deduction, except as follows: as provided in 124
sections 3119.80, 3119.81, 3121.02, 3121.03, and 3123.06 of the 125
Revised Code; when the payment is to be made to the executor or 126
administrator or the trustee of a trust of the estate of a winning 127
ticket holder; when the award of a prize is disputed, any person 128
may be awarded a prize award to which another has claimed title, 129
pursuant to the order of a court of competent jurisdiction; ~~or~~ 130
when the director is to make a payment pursuant to section 131
3770.071 of the Revised Code; or as provided in sections 3770.10 132
to 3770.14 of the Revised Code. 133

(b) The commission shall adopt rules pursuant to section 134
3770.03 of the Revised Code concerning the payment of prize awards 135
upon the death of a prize winner. Upon the death of a prize 136
winner, the remainder of the prize winner's prize award, to the 137
extent it is not subject to a transfer agreement under sections 138

3770.10 to 3770.14 of the Revised Code, may be paid to the 139
executor, administrator, or trustee in the form of a discounted 140
lump sum cash settlement. 141

(5) No lottery prize award shall be awarded to or for any 142
officer or employee of the state lottery commission, any officer 143
or employee of the auditor of state actively coordinating and 144
certifying commission drawings, or any blood relative or spouse of 145
such officer or employee of the commission or auditor of state 146
living as a member of such officer's or employee's household, nor 147
shall any such employee, blood relative, or spouse attempt to 148
claim a lottery prize award. 149

(6) The director may prohibit vendors to the commission and 150
their employees from being awarded a lottery prize award. 151

(7) Upon the payment of prize awards pursuant to this section 152
the director and the commission are discharged from all further 153
liability therefor. 154

(B) The commission may adopt rules governing the disbursement 155
of unclaimed prize awards as all or part of the prize award in a 156
lottery and may, pursuant to those rules, conduct the lottery and 157
disburse any such unclaimed prize awards. Any lottery in which all 158
or any part of the prize award is paid from unclaimed prize awards 159
shall be conducted in accordance with all of the other 160
requirements of this chapter, including, but not limited to, the 161
time and proof requirements for claiming awards and the 162
disposition of unclaimed prize awards when the prescribed period 163
for claiming the award has passed. A prize award or any part of a 164
prize award that is paid from an unclaimed prize award shall not 165
be reapplied toward the satisfaction of the requirement of 166
division (A) of section 3770.06 of the Revised Code that at least 167
fifty per cent of the total revenues from ticket sales be 168
disbursed for monetary prize awards, if such unclaimed prize award 169
was previously applied toward the satisfaction of that 170

requirement. On or before the last day of January and July each 171
year, the commission shall report to the general assembly the 172
gross sales and net profits the commission obtained from the 173
unclaimed prize awards in lotteries conducted pursuant to this 174
division during the preceding two calendar quarters, including the 175
amount of money produced by the games funded by the unclaimed 176
prize awards and the total revenue accruing to the state from the 177
prize award lotteries conducted pursuant to this division. 178

There is hereby established in the state treasury the 179
unclaimed lottery prizes fund, to which all unclaimed prize awards 180
shall be transferred. Any interest ~~which~~ that accrues on the 181
amounts in the fund shall become a part of the fund and shall be 182
subject to any rules adopted by the commission governing the 183
disbursement of unclaimed prize awards. 184

Sec. 3770.10. As used in sections 3770.10 to 3770.15 of the 185
Revised Code: 186

(A) "Court of competent jurisdiction" means the probate court 187
of the county in which the prize winner resides, or, if the prize 188
winner is not a resident of this state, the probate court of 189
Franklin county or a federal court having jurisdiction over the 190
lottery prize award. 191

(B) "Discounted present value" means the present value of the 192
future payments of a lottery prize award that is determined by 193
discounting those payments to the present, using the most recently 194
published applicable federal rate for determining the present 195
value of an annuity as issued by the United States internal 196
revenue service and assuming daily compounding. 197

(C) "Independent professional advice" means the advice of an 198
attorney, a certified public accountant, an actuary, or any other 199
licensed professional adviser if all of the following apply: 200

(1) The prize winner has engaged the services of the licensed professional adviser to render advice concerning the legal and other implications of a transfer of the lottery prize award.

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(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.

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

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(D) "Prize winner" means any person that holds the right to receive all or any part of a lottery prize award other than by transfer, and includes a person who receives all or any portion of the lottery prize award under division (A)(4)(b) of section 3770.07 of the Revised Code, as a result of the prize winner's death.

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(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 for consideration.

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

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

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(H) "Transferor" means a prize winner or a grantee in an earlier transfer whose interest is acquired by or is sought to be acquired by a transferee through a transfer.

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Sec. 3770.11. Prior to the date on which a transferor becomes 231
obligated under a transfer agreement, the transferee shall provide 232
to the transferor a disclosure statement, in boldface type of the 233
minimum size of fourteen points, setting forth all of the 234
following: 235

(A) The amounts and due dates of the lottery prize award 236
payments that would be transferred under the transfer agreement; 237

(B) The aggregate amount of the lottery prize award payments 238
described in division (A) of this section; 239

(C) The discounted present value of the lottery prize award 240
payments described in division (A) of this section, calculated as 241
of the date the disclosure statement is provided to the 242
transferor, and the amount of the applicable federal rate used in 243
determining the discounted present value; 244

(D) The gross amount payable to the transferor in exchange 245
for or as consideration for the transfer of the lottery prize 246
award payments described in division (A) of this section; 247

(E) An itemized listing of all brokers' commissions, service 248
charges, application fees, processing fees, closing costs, filing 249
fees, administrative fees, legal fees, notary fees, and other 250
commissions, fees, costs, expenses, and charges payable by the 251
transferor or deductible from the gross amount otherwise payable 252
to the transferor as described in division (D) of this section; 253

(F) The net amount payable to the transferor after deduction 254
from the gross amount payable to the transferor as described in 255
division (D) of this section of all commissions, fees, costs, 256
expenses, and charges described in division (E) of this section; 257

(G) The quotient, expressed as a percentage, obtained by 258
dividing the net amount payable to the transferor as described in 259
division (F) of this section by the discounted present value of 260

the payments described in division (C) of this section.

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Sec. 3770.12. A court of competent jurisdiction may approve a transfer of a lottery prize award only in a final order that is based on the express findings of the court, and the express findings shall include all of the following:

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(A) The transferee has provided to the transferor a disclosure statement that complies with section 3770.11 of the Revised Code, and the transferor has confirmed the transferor's receipt of the disclosure statement, as evidenced by the transferor's notarized signature on a copy of the disclosure statement.

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(B) If the transferor is a prize winner, the prize winner has established that the transfer is fair and reasonable and in the best interests of the prize winner.

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(C) If the transferor is a prize winner, the prize winner has received independent professional advice regarding the legal and other implications of the transfer.

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

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(E) The transferee is a trust, limited partnership, general partnership, corporation, professional association, limited liability company, or other entity that is qualified to do business in this state and meets the registration requirements for that type of entity under Title XVII of the Revised Code.

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

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(G) The transfer does not include or cover the amounts of the

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lottery prize award that are required to be withheld or deducted 292
pursuant to section 3119.80, 3119.81, 3121.02, 3121.03, 3123.06, 293
3770.071, or 3770.072 of the Revised Code. 294

(H) Any amounts described in division (G) of this section 295
that are required to be withheld or deducted, as of the date of 296
the court order, will be offset by the commission first against 297
remaining payments due the transferor and then against payments 298
due the transferee. 299

(I) Except as provided in divisions (G) and (H) of this 300
section, that the transferor's interest in each and all of the 301
future payments from a particular lottery prize award is to be 302
paid to a single transferee, or, if the payments from the lottery 303
prize award are divided between and among multiple transferees, 304
the state lottery commission has promulgated rules under section 305
3770.03 of the Revised Code permitting transfers to multiple 306
transferees, and the transfer is consistent with such rules. 307

Sec. 3770.13. (A) A transferee shall file an application 309
under sections 3770.10 to 3770.14 of the Revised Code for the 310
approval in advance of a transfer of a lottery prize award in a 311
court of competent jurisdiction. 312

(B) The following procedures shall apply to an application 313
for the approval in advance by a court of a transfer of a lottery 314
prize award under division (A) of this section: 315

(1) Upon the filing of the application, the court shall set a 316
date, time, and place for a hearing on the application and shall 317
notify the transferee and transferor of the date, time, and place 318
of the hearing. 319

(2) Not less than fourteen days prior to the date set by the 320
court for the hearing on an application filed pursuant to this 321
section, the transferee shall file with the court and shall serve 322

on the court and on the state lottery commission, in the manner
prescribed in the Rules of Civil Procedure for the service of
process, a notice of the proposed transfer and the application for
its approval in advance. The notice shall include all of the
following:

(a) A copy of the application;

(b) A copy of the transfer agreement;

(c) A copy of the disclosure statement provided by the
transferee pursuant to section 3770.11 of the Revised Code and
signed by the transferor pursuant to division (A) of section
3770.12 of the Revised Code;

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

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

(4) At the conclusion of the hearing on an application under
this section, the court may grant or deny the approval of the
transfer. The court shall enter its order accordingly. If the
court grants the approval of the transfer, it shall include in its
order all of the express findings specified in section 3770.12 of
the Revised Code. If the court denies the approval of the
transfer, it shall include in its order the reasons for the
denial.

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

Sec. 3770.14. (A) Upon receipt of a court order issued under
section 3770.13 of the Revised Code, the transferee shall provide
a certified copy of the court order to the director of the state
lottery commission. Not later than ten days after receipt of the

certified copy of the court order, the director shall acknowledge 354
to the transferee in writing the commission's intent to comply 355
with the court order in making future payments. 356

(B) The director shall make payments of the lottery prize 357
award in accordance with the terms specified in the certified copy 358
of the court order. The director may charge a processing fee, in 359
an amount determined by the commission by rule pursuant to section 360
3770.03 of the Revised Code, to cover any direct or indirect costs 361
associated with making the prize award payments in accordance with 362
the terms specified in the certified copy of the court order. 363

(C) Upon payment of the lottery prize award pursuant to this 364
section, the director and the commission are discharged from all 365
further liability therefor. 366

Sec. 3770.15. The transfer of all or any part of a lottery 367
prize award under sections 3770.10 to 3770.14 of the Revised Code 368
is also subject to the applicable provisions of Chapter 1309. of 369
the Revised Code. 370

Section 2. That existing sections 1309.109 and 3770.07 of the 371
Revised Code are hereby repealed. 372