



MEMORANDUM

To: California State Lottery Commission **Date:** June 27, 2007

From: Joan M. Borucki
Director

Prepared By: Donald J. Currier, Chief Counsel
Legal Office

Subject: Item 9(a) - Approval of Amendment to Prize Assignment Regulations to Conform with Statutes and to Define Voluntary and Non-voluntary Assignments

ISSUE

Should the California State Lottery Commission (Commission) amend its Prize Assignment Regulations to: 1) reflect recent additions to California Government Code section 8880.325 (e); and 2) more accurately support the intent of Government Code section 8880.325.

RECOMMENDATION

California State Lottery (Lottery) staff recommends that the Commission adopt the proposed amendments.

The first set of amendments updates the Prize Assignment Regulations to comply with amendments to the statute underlying the Regulations, Government Code section 8880.325(e).

The additional amendments clarify the difference between voluntary and non-voluntary prize assignments as they pertain to restrictions against the assignment of an annuity prizewinner's final three payments.

BACKGROUND

The primary purpose for the addition of language to the Prize Assignment Regulations is to ensure agreement between the Regulations and Government Code section 8880.325(e). Recent amendments were made to Government Code section 8880.325(e) and the Regulations must be updated to accurately reflect the language from Government Code section 8880.325(e).

The second change is to clarify the language concerning non-voluntary assignments. The current language does not clearly differentiate between voluntary and non-voluntary assignments, which is necessary so California courts can issue appropriate orders and avoid violating the Lottery Act's restrictions regarding a winner's final three payments. The regulations are also unclear on the appropriate duties and assignments of a conservator with relation to the Lottery winnings.

DISCUSSION

In 2006, the California legislature added language to Government Code section 8880.325(e) allowing for installment payments to Lottery winners if certain protections are in place. Installment payment schedules are now permitted if they are guaranteed by a financial institution as defined in paragraph (2) of subdivision (a) of section 4981 of the Financial Code, or a brokerage firm that is a member of the Securities Investor Protection Corporation. Language was also added stating that when a prizewinner accepts an installment obligation which is guaranteed by an FDIC or SIPC entity, the lien created under Government Code section 8880.325(e) is terminated upon delivery of the installment obligation.

These additions protect both the prizewinner and the installment payer, and taking these additions from the Government Code section and adding them to the Prize Assignment Regulations brings the language of the Regulation into agreement with the Government Code section.

When the Lottery was first established, it was not legal to assign any of the prize payments. As the Lottery Act has been amended, it has allowed assignments under certain circumstances. These additions to the non-voluntary court ordered assignments bring the regulations into compliance with the Lottery's practices and more clearly explain the requirements necessary for the Lottery to recognize a non-voluntary court assignment. These clarifications protect the Lottery from future suits that may arise out of possible interpretations of the Regulations that are in conflict with the Lottery's.

The new language defines what a proper non-voluntary court order is and specifies the requirements regarding the power and authority of the court-appointed guardian or conservator with regard to a Lottery prize.

The proposed Regulation amendments are attached.

CALIFORNIA STATE LOTTERY
PRIZE ASSIGNMENT REGULATIONS

1. PURPOSE

These regulations are promulgated by the California State Lottery (Lottery) Commission (Commission) for the purpose of implementing Chapter 890, Statutes of 1994, which amended Government Code section 8880.32 as revised by Chapter 363, Statutes of 1995, commencing with section 8880.325, regarding the exceptions to the general rule prohibiting assignment of the rights to a lottery prize.

2. VOLUNTARY ASSIGNMENT OF PRIZE PURSUANT TO AN APPROPRIATE JUDICIAL ORDER

- a. Except as provided in Government Code section 8880.325(j), in the case of a voluntary assignment of a right to a prize pursuant to an appropriate judicial order of a California superior court or a federal court having jurisdiction over property located in California, the Lottery will make payment to the person or entity designated by the court order provided that a certified or conformed copy of the court order, copies of all documents filed with the court, and all supporting documents listed in section 2.b., below, are filed with the Lottery by personal delivery or mail pursuant to the timeline set forth in section 2.e. below, and provided the court order contains at least the following:

“Prize winner” or “winner” means any person or entity who is receiving a prize payment from the Lottery which may include, but not be limited to, a trustee, beneficiary, heir, assignee or other transferee.

- (1) The winner’s name as it appears on the Lottery claim form and the full legal name of the winner, if different;
- (2) The winner’s social security number;
- (3) The assignee’s name, address, and social security number or tax identification number, if applicable;
- (4) The assignee’s citizenship or resident alien number (if applicable);

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- (5) The specific prize payments assigned and the date(s) and/or years to be assigned. If the assignee is responsible for the tax withholding and reporting, the statement “less federal taxes and deductions authorized by law” must be stated after the gross prize amount. Otherwise, the statement “after deductions authorized by law” must be stated after the net prize amount.
- (6) The names(s) and mailing address(es) of all party(ies) to the assignment, including intermediary party(ies) if any;
- (7) Findings that expressly identify any nonspouse co-owner, claimant, or lienholder, and the amount of the interests, liens, security interests, assignments, or offsets asserted by other persons or the State against any of the prize payments of the winner, including, but not limited to, payments that are the subject of the proposed assignment and the dates of such interests, if available, represented to the court by the winner in a written declaration signed under penalty of perjury and filed with the Court.
- (8) Findings regarding the interest of a spouse in the prize, if applicable. It shall be the responsibility of the winner to bring to the attention of the court either by sworn testimony or by written declaration under penalty of perjury, the existence or non-existence of a current spouse. If married, the winner must identify that spouse and submit to the court a signed and notarized statement of the spouse consenting to the assignment. If a notarized statement is not presented to the court, the court shall determine, to the extent necessary and as appropriate under applicable law, the ability of the winner to make the proposed assignment without the spouse’s consent.
- (9) Findings that the winner has represented to the court either by sworn testimony (if a personal appearance is required by the court) or by written declaration filed with the court under penalty of perjury and that the court has determined the following representations to be true and correct that the winner:
 - (a) Has reviewed and understands the terms and effects of the assignment;
 - (b) Understands that he or she will not receive the assigned prize payments or a portion thereof for the payments assigned;

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- (c) Has entered into the agreement of his or her own free will without undue influence or duress and not under the influence of drugs or alcohol;
 - (d) Has had an opportunity to retain and consult with an independent financial and tax adviser(s) concerning the effect of the assignment, who have fully advised the winner about the tax consequences of the assignment; and
 - (e) Has been represented by independent legal counsel, who has advised the winner of his or her legal rights and obligations under the assignment. Evidence of representation by independent legal counsel must include, at a minimum, a declaration under penalty of perjury, from the winner attesting to the fact that he/she has retained and consulted and is represented by an attorney who provided independent legal advice concerning the assignment in question and a declaration, under penalty of perjury, from the attorney consulted, which attests to the fact that he/she was consulted by the winner regarding the identified assignment transaction and rendered independent legal advice to the winner regarding his/her legal rights and obligations under and in connection with the assignment and any supporting or related agreements. The declaration of the attorney must also include the attorney's Bar number and state(s) in which he/she is licensed to practice law.
- (10) Findings that the winner or the proposed assignee has obtained and filed with the court notifications (a) from the Lottery regarding any liens, levies, or claims asserted against the winner, and (b) from the Controller's office regarding any offsets asserted against the winner, as reflected in their respective official records as of the time of the notification. (The date of the notification shall not be more than 20 calendar days prior to the court hearing, unless extended by the court.)
- (11) Statements complying with Government Code section 8880.325(d)(6).

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(12) Findings that the payment of moneys to, or on behalf of, the winner by the assignee in consideration for the assignment of the prize payment(s) shall be made: (i) in full prior to the time when, under the terms of the assignment, the Lottery is required to make the first prize payment to the assignee or, (ii) in two installments, the first being paid prior to the time when, under the terms of the assignment, the Lottery is required to make the first prize payment to the assignee and the second installment being paid within 11 months thereafter; provided that the second installment shall not be in an amount that exceeds the first installment. Notwithstanding the foregoing, any other installment payment schedule is permitted if the installment obligation relating to the installments is guaranteed by a financial institution, as defined in paragraph (2) of subdivision (a) of Section 4981 of the Financial Code, or a brokerage firm that is a member of the Securities Investor Protection Corporation.

- a. Submit copies of all supporting documentation including, but not limited to, assignment, loan, and/or security agreement, and endorsed copy(ies) of the UCC financing statement form and/or UCC-3 form, if applicable, pursuant to the timelines set forth in section 2.e. below.
- b. The winner shall have a special lien for the balance of any payment due, effective without any further action, agreement, or notice on any of the prize payment(s) assigned by the winner for the payment of moneys from the assignee. This lien shall terminate upon the winner receiving actual payment of the moneys. Notwithstanding the foregoing, if a prizewinner accepts an installment obligation guaranteed by an FDIC or SIPC insured entity, then the lien created by this section shall automatically terminate upon delivery of the installment obligation.
- c. Upon filing with the Lottery a notarized "consent to release" form signed by the winner authorizing release of the information to an identified third party, a copy of a valid photo I.D., and Social Security Number or IRS W-9 form, the Lottery shall review its records for court orders, assignments, levies or other rights to receive payments applicable to the winner's payment. Thereafter, the Lottery shall notify the winner and the third party of any court orders, assignments, levies or other rights to receive payments to which the winner's payment is subject.
- d. Sufficient notice must be provided to the Lottery prior to the payment date to allow for a change in the payee. The Lottery shall not be responsible for failure to make a payment to an assignee if adequate time is not allowed for the Lottery to process the change. Sufficient

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notice is defined as follows: Receipt by the Lottery of a certified copy of a court order in compliance with section 2.a of the regulations, copies of all documents filed with the court, and all supporting documents listed in section 2.b., above, at least 45 calendar days prior to the prizewinner's payment date.

- e. The Lottery will not appear or participate in any hearing unless ordered to do so by a court. Therefore, the Lottery needs no notice of the court proceeding.
- f. The independent counsel representing the winner shall appear as counsel of record on all pleadings filed in any court proceedings. Independent counsel's name and State Bar of California number must appear on all such pleadings.
- g. It is the responsibility of the winner or the winner's spouse or any agent who has legal authority to exercise substituted judgment on behalf of the winner or the winner's spouse to bring to the attention of the court, either by sworn testimony or by written declaration under penalty of perjury, any and all liens or offsets including, without limitation, tax liabilities and withholdings against prize payments. The Lottery will not pay the assignee an amount in excess of the prize payment less such liens, offsets and tax liabilities and withholdings. If the amount of the assignment included in the court order is greater than the winner's prize payment less all liens, offsets, and tax liabilities and withholdings, the Lottery will not confirm the assignment or make payment to anyone until the parties obtain a correct order reflecting the winner's obligations. If the prize payment date is imminent, the Lottery may interplead with the court the prize payment, less liens, offsets, tax liabilities and withholdings, and the fee established by the Commission for processing the assignment.
- h. Payments will be made in accordance with the court order until either the term of the court order ends or a later court order directs payment otherwise. Payment will be made to the name of the assignee designated in the court order and to no other name.
- i. No change in the terms of the assignment pursuant to court order may be made without an appropriate court order. A fee of \$500 payable to the Lottery shall be charged for each assignment regardless of whether one court order covers multiple assignments, including, but not limited to, any secondary or intermediary assignments among assignment or finance companies. The fee of \$500 may either be made payable to the

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Lottery during the assignment or be offset from the assignee's first Lottery payment.

- j. If a dispute arises between the winner and the assignee or between either the winner or the assignee and a third party, the Lottery may interplead each payment when it becomes due and payable into a court of competent jurisdiction for judicial resolution. The Lottery may recover, as part of the fee charged for processing assignments, its actual legal fees and costs associated with the interpleader.
- k. Prior to the assignment of any prize pursuant to an appropriate judicial order pursuant to this section, the State Controller's Office shall determine whether the prize winner owes any obligation that is subject to offset under Article 2 (commencing with section 12410) of Chapter 5 of Part 2 of Division 3 of Title 2 of the Government Code and shall provide notification of his or her determination to the Lottery.
- l. For prizes paid in annual installments, no winner shall have the right to assign the final three annual prize payments. For prizes paid in weekly installments, no winner shall have the right to assign any prize to be paid during the last three years.

3. NON-VOLUNTARY, COURT-ORDERED DISPOSITION OF PRIZE

a. This section shall apply to all prize assignments that are not for the purposes provided in sections 2, 4, 5, and 6.

b. The right to a lottery prize or any portion thereof may be assigned:

(1)

Pursuant to an appropriate judicial order appointing a conservator or a guardian for either:

(i) the protection of the prizewinner; or

(ii) the adjudication of the rights to or ownership of the prize.

c. The Lottery shall make payment pursuant to such court order provided that:

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- (1) A certified copy of the court order is filed with the Lottery by personal delivery or mail pursuant to the timelines set forth in section 3.d. below; and

- (2) The court order provides at least the following:
 - (a) The winner's name as it appears on the Lottery claim form and the full legal name of the assignor, if different;
 - (b) The winner's social security number;
 - (c) The assignee's name, social security number or tax identification number, and mailing address;
 - (d) The assignee's citizenship or resident alien number, if a natural person, if applicable;
 - (e) The specific prize payments assigned and the date(s) and/or years to be assigned. If the assignee is responsible for the tax withholding and reporting, the statement "less federal taxes and deductions authorized by law" must be stated after the gross prize amount. Otherwise, the statement "after deductions authorized by law" must be stated after the net prize amount.
 - (f) Statement complying with Government Code section 8880.325(d)(6):

- d. Sufficient notice must be provided to the Lottery prior to the payment date to allow for a change in the payee. The Lottery shall not be responsible for failure to make a payment to an assignee if adequate time is not allowed for the Lottery to process the change. Sufficient notice is defined as follows: Receipt by the Lottery of a certified copy of a court order in compliance with section 3.c.(2) of these regulations at least 45 calendar days prior to the prizewinner's payment date.

- e. The Lottery will not appear or participate in any hearing unless ordered to do so by a court. Therefore, the Lottery needs no notice of the court proceeding.

- f. For the appropriate case, it shall be the responsibility of the winner to bring to the attention of the court, by declaration under penalty of

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perjury, the existence or non-existence of a current spouse and, if applicable, the winner must identify that spouse and produce for the court a signed and notarized statement of the spouse consenting to the assignment. If no consent is produced, the court shall determine the interest of the non-consenting spouse in the prize.

- g. It is the responsibility of the winner or the winner's spouse or any agent who has legal authority to exercise substituted judgment on behalf of the winner or the winner's spouse to bring to the attention of the court, by declaration under penalty of perjury any and all liens, offsets, including, without limitation, tax liabilities and withholdings, against prize payments. The Lottery will not pay the assignee an amount in excess of the prize payment less such liens, offsets and tax liabilities and withholdings unless the court expressly orders the Lottery to do so after making findings regarding the interests of the other creditors. In the absence of such express order, if the amount of the court-ordered payment is greater than the winner's prize payment less all liens, offsets, and tax liabilities and withholdings, the Lottery will only pay the amount in excess of all other claims to the payment. If the prize payment date is imminent, the Lottery may interplead with the court the prize payment, less liens, offsets, tax liabilities and withholdings, and the fee established by the Commission for processing the assignment.
- h. If the Lottery determines that the court order is complete and correct in all respects, the Lottery will send to the winner and the assignee(s) a written confirmation of the court-ordered assignment and payments will be made in accordance therewith until either the term of the order ends or a later court order directs payment otherwise. Checks will be made payable to the name of the assignee designated in the court order and to no other name.
- i. No change in the terms of the assignment may be made by a winner or an assignee without an appropriate court order.
- j. If a dispute arises between the winner and the assignee(s) or between either the winner or the assignee(s) and a third party, the Lottery may interplead each payment due into a court of competent jurisdiction for judicial resolution. The Lottery may recover, as part of the fees charged for processing assignments, its actual legal fees and costs associated with the interpleader.

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4. ASSIGNMENT OF PRIZE AS COLLATERAL FOR A LOAN

a. Except as provided in Government Code section 8880.325(j), any prize payable in annual or weekly installments or any portion thereof may be assigned as collateral to a person or entity to secure a loan pursuant to Division 9 (commencing with section 9101) of the California Commercial Code as provided in Government Code section 8880.325. If such arrangement is conditional upon the payments being made by the Lottery directly to the lender or an assignee of the lender, then the procedure and requirements provided for in section 2 of these regulations, with the exception of subparagraph a.(12) must be observed. In such cases, for purposes of obtaining the court order, the lender shall be treated in the same manner as the assignee and the financing arrangement shall be treated in the same manner as the assignment. All other assignments of prize payments as collateral shall be subject to all of the following:

- (1) Any loan secured by the assignment of a lottery prize shall not apply to the last three annual prize payments if the prize is paid in annual installments or to any prize to be paid during the last three years (if the prize is paid in weekly installments) from the Lottery to the prize winner.
- (2) Subject to subsection (1) above, in the event of a default under the loan or security agreement, the secured creditor's rights shall be limited to receiving the regular payments made by the Lottery on the prize winner's interest until the obligation is paid in full or the prize has been paid in full, whichever occurs first. Notwithstanding Division 9 of the Commercial Code (commencing with section 9101), the secured creditor shall not have the right to sell or assign the prize winner's rights to payments to itself or to any other person. This section shall not limit the secured creditor's right to sell, assign, or transfer the obligation of the debtor and related security interest to a third party.

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- (3) The prize winner and secured creditor may agree and jointly instruct the Lottery to have all prize payments deposited directly into an account maintained by the prize winner at a federally insured financial institution located within the state of California. This account may be subject to the secured creditor's lien. Upon receipt of these instructions, the Lottery shall continue to deposit all payments due the prize winner into the account until the Lottery receives notification from the secured creditor and prize winner that the payments are to be made at an account maintained at another financial institution or that the secured creditor releases or terminates the security interest in the prize winner's payments. The joint instruction provided for herein, must be on a form approved by the Lottery, or the director or his or her designee as provided in subparagraph (5), below, and the signature of the winner must be notarized.
- (4) For the purpose of perfecting the security interest of the secured creditor, the right of the prize winner to receive payments is deemed to be a contract right that is perfected by the filing of the applicable UCC financing statement with the Secretary of State.
- (5) A copy of the security agreement, an endorsed copy of the applicable UCC financing statement, an endorsed copy of the UCC-3 form, (if applicable) and the joint instruction to deposit the prize winner's payments directly into an account at the financial institution (if applicable) shall be filed with the Lottery at least 45 calendar days prior to the prizewinner's payment date. In the case of a married winner, the applicable UCC financing statement must be accompanied by either a signed and notarized Lottery "Consent and Joinder of Spouse" form or a certified copy of a valid, current court order determining the interest of the spouse in the prize.
- (6) Notwithstanding the security interest granted a secured creditor, all prize payments shall be made payable to the prize winner and the payments shall be sent directly to the prize winner, except as follows:
 - (a) The prize winner's payments, still payable to the prize winner, shall be sent directly to the financial institution designated pursuant to subsection (4) above.

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- (b) The prize winner's payments, in whole or in part, shall be sent directly to the secured creditor pursuant to an order of a court of competent jurisdiction, directing the lottery to make the payments, in whole or in part, directly to the secured creditor. Payments made to the secured creditor pursuant to court order shall be limited to the amount due and payable as of the time of the payment by the Lottery. In cases in which the court order is approving a loan secured by prize payments and direct payment to the secured creditor is a condition precedent to the loan transaction, the requirements of section 2 of these regulations, with the exception of subsection a. (12), must be met.
- (c) The prize winner's payments, in the event of a default under the security agreement or obligation it secures, shall be sent directly to the secured creditor pursuant to an order of a court of competent jurisdiction determining that the payments are to be made directly to the secured creditor.
- (7) Upon the termination or release of the security interest, the secured creditor shall file with the Lottery an endorsed or filed copy of the UCC-3 financing statement terminating the security interest.
- (8) Prior to assignment of any prize as collateral to secure a loan pursuant to this subdivision, the State Controller's Office shall determine whether the prize winner owes any obligation that is subject to offset under Article 2 (commencing with section 12410) of Chapter 5 of Part 2 of Division 3 of Title 2 of the Government Code and shall provide notification of his or her determination to the Lottery and to the Secretary of State.
- (9) Notwithstanding any other provision of law, the prize winner, by the act of entering into an agreement to assign any prize as collateral to secure a loan, is deemed to have waived any statutory period of limitations that otherwise would bar collection by the State of prize payments due after expiration of the term of the secured loan for obligations that accrue subsequent to the assignment of the prize as collateral.
- (10) Upon filing with the Lottery a notarized "consent to release" form signed by the prize winner authorizing release of the information to an identified third party, the Lottery shall review its records for

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court orders, assignments, levies or other rights to receive payments applicable to the prize winner's payment. Thereafter, the Lottery shall notify the prize winner and the third party of any court orders, assignments, levies or other rights to receive payments to which the winner's payment is subject.

- (11) Upon filing with the Lottery an endorsed UCC financing statement, and additional UCC form (if applicable), and executed security agreement, a secured creditor may obtain information from the Lottery regarding the prize which is the collateral for the loan without the approval of the debtor.
- (12) If a dispute arises between the winner and any other person or entity claiming a right to all or any portion of the prize, the Lottery may interplead those full or partial payments which are the subject of the conflicting claims into a court of competent jurisdiction for judicial resolution. The Lottery may recover, as part of the fee charged for processing assignments, its actual legal fees and costs associated with the interpleader.
- (13) A fee of \$500 payable to the Lottery shall be charged for processing the assignment of a prize as collateral pursuant to the preceding provisions.
- (14) All terms used in this section 4 shall have the same meaning which they have under the California Commercial Code.

5. ASSIGNMENT OF PRIZE TO A REVOCABLE TRUST DURING THE LIFE OF THE WINNER

- a. During the winner's lifetime, the winner may assign his or her rights to all or a portion of a prize to a qualifying trust which is a revocable living trust established by the winner for the benefit of the winner as a beneficiary and governed by the laws of the State of California and which may become irrevocable, in whole or in part, upon the death of either the winner or any co-grantor as defined by the provisions of the trust instrument.
- b. To be effective, the assignment, amendment to the assignment, or revocation of the assignment to a qualifying trust must be executed by the winner, in the presence of a notary public, on a form approved by, and filed with, the Lottery during the winner's lifetime. The initial

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assignment, amendment to the assignment, or revocation of the assignment must be signed by the winner's spouse and the spouse's signature must be notarized or must be accompanied by a certified copy of a valid, current court order determining the spouse's interest in the prize.

- c. During the winner's lifetime, provided that the assignment is properly completed and executed by the winner and timely filed with the Lottery and unless and until the assignment is properly and timely amended or revoked by the winner, as described above, the assigned portion(s) of the winner's next payment and payments thereafter shall be made to the trustee(s) of the qualifying trust and any non-assigned portions of the winner's next payment and payments thereafter shall be made to the winner. An assignment, amendment, or revocation as described in this section shall be deemed to have been timely filed if it is received by the Lottery at least 45 days prior to the prizewinner's payment date.
- d. Upon the death of the winner the Lottery shall pay the remaining payments in accordance with section 6, below, provided that the prize payments were effectively assigned (as described above) during the winner's lifetime to a qualifying trust.
- e. If the co-grantor predeceases the winner, and the prize payments were effectively assigned (as described above) to a qualifying trust, the remaining prize payments will be paid in accordance with section 7, below.
- f. A fee of \$500 shall be charged by the Lottery for processing each assignment to a trust pursuant to this section 5.

6. DISPOSITION OF PRIZE UPON THE DEATH OF THE WINNER

- a. If a winner fails to return the yearly confirmation letter which is sent out by the Lottery prior to mailing each payment, the Lottery will hold the payment until contacted by: (1) the winner; (2) the trustee of a qualifying trust as provided in section 5, above; (3) the personal representative of the testate or intestate estate of a deceased prize winner; (4) a person or persons filing an affidavit pursuant to sections 13000 et seq. of the California Probate Code; or (5) a person or persons designated under an appropriate judicial order adjudicating rights to the ownership of the prize and the Lottery has determined the proper payee(s) or has interpleaded the payment into a court of competent jurisdiction for judicial resolution.

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The Lottery may recover, as part of the fee charged for processing assignments, its actual legal fees and costs associated with the interpleader.

- b. If the winner has assigned his or her rights to a prize to a qualifying trust as provided in section 5 above, then upon the death of the winner, it is the responsibility of the surviving or successor trustee(s) of the qualifying trust to timely and properly notify the Lottery of the winner's death. It is also the responsibility of the trustee(s) of the qualifying trust, using Lottery-approved forms and affidavits, to timely and properly notify Lottery of the proper disposition of the payments under the provisions of the qualifying trust, and provide the Lottery a complete copy of the qualifying trust. Until such notice is provided, the Lottery shall hold the payments.

If all or a portion of the qualifying trust becomes irrevocable upon the winner's death, the Lottery shall make payment(s) to the trustee(s) of the remaining revocable and/or irrevocable trust(s) or subtrust(s).

- c. If during the winner's lifetime a Lottery-approved beneficiary designation form has been properly and timely filed with the Lottery and provided that it is effective upon the winner's death, the Lottery shall make payments to beneficiaries in accordance with the designation. To be effective, a beneficiary designation form must comply with the following requirements.
- (1) Be made on a form approved by the Lottery.
 - (2) Be executed during the winner's lifetime and be notarized.
 - (3) Be filed with the Lottery during the winner's lifetime.
 - (4) Be the current, effective designation.
 - (5) In the case of a married winner, the beneficiary designation form must be accompanied by a notarized Lottery "Consent and Joinder of Spouse" form bearing the notarized signature of the winner's spouse, or be accompanied by a certified copy of a valid, current court order determining the spouse's interest in the prize.

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- (6) If the primary designee predeceases the winner, payments will be made as follows:
 - (a) To the surviving primary designee(s) and any remaining share of the prize as provided in subsection d., below.
 - (b) If there are no surviving primary designee(s) then the payment will be made to the secondary designee(s).
 - (c) If there are no surviving designees then the payment will be made as provided in subsection d., below.
- d. Upon the death of a winner, in the absence of a valid assignment to a revocable living trust or a valid beneficiary designation, the winner's prize shall be paid as follows:
 - (1) To the personal representative of the testate or intestate estate of a deceased prize winner upon receipt by the Lottery of a certified copy of the court order and letters appointing an executor, administrator, or other personal representative of the estate of the deceased prize winner or a certified copy of the final order of distribution. The certification date on the copy of the letters or final order of distribution must be within 60 days of the date that the document is received by the Lottery. The Lottery reserves the right to require updated certification of the letters as it deems necessary.
 - (2) As provided under Part 1 (commencing with section 13000, "Collection or Transfer of Small Estate without Administration") and Part 2 (commencing with section 13500, "Passage of Property to Surviving Spouse without Administration") of Division 8 of the Probate Code.
 - (3) To a person or persons designated under an appropriate judicial order adjudicating rights to the ownership of the prize pursuant to subsection 3 (non-voluntary) above.
 - (4) Before making payment under this provision, the Lottery must be provided with the beneficiary(ies)' name(s), address(es) and social security number(s) or federal employer identification number(s).

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7. DISPOSITION OF PRIZE UPON THE DEATH OF A CO-GRANTOR OR SPOUSE

- a. If the winner has assigned his or her rights to a prize to a qualifying trust as provided in section 5 above, then upon the death of any co-grantor, it is the responsibility of the surviving or successor trustee(s) of the qualifying trust to timely and properly notify the Lottery of the co-grantor's death. It is also the responsibility of the trustee(s) of the qualifying trust, using Lottery-approved forms and affidavits, to timely and properly notify Lottery of the proper disposition of the payments under the provisions of the qualifying trust.

If all or a portion of the qualifying trust becomes irrevocable upon a co-grantor's death, the Lottery shall make payment(s) to the trustee(s) of the remaining revocable and/or irrevocable trust(s) or subtrust(s).

8. DELEGATION OF AUTHORITY TO DEVELOP FORMS

The Commission grants to the director or the director's designee authority to develop forms consistent with the governing statute and these regulations for the purpose of implementing these provisions.

9. EFFECT OF SUBSEQUENT LEGISLATIVE CHANGES

To the extent that these regulations incorporate statutory provisions, they shall be modified by subsequent amendments to those provisions.

(Commission Approved October 19, 1994, Amended: November 18, 1994; January 20, 1995; September 8, 1995; January 23, 1998; April 16, 1999; March 24, 2000, November 9, 2001, September 28, 2004)

Deleted: Approved September 28, 2004