

CHAPTER 46

AN ACT concerning slot machine annuity jackpots, amending P.L.1995, c.18, and supplementing P.L.1977, c.110 (C.5:12-1 et seq.).

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

C.5:12-2.1a "Annuity jackpot."

1. "Annuity jackpot" - A slot machine jackpot offered by a casino licensee or multi-casino progressive slot machine system pursuant to which a patron wins the right to receive fixed cash payments at specified intervals in the future.

2. Section 3 of P.L.1995, c.18 (C.5:12-2.2) is amended to read as follows:

C.5:12-2.2 "Annuity jackpot guarantee."

3. "Annuity jackpot guarantee" -- A financial arrangement established in accordance with the rules of the commission to assure that all payments that are due to the winner of an annuity jackpot are actually paid when due regardless of the future financial stability of the slot system operator that is responsible for making such payments.

C.5:12-33.1 "Multi-casino progressive slot machine system."

3. "Multi-casino progressive slot machine system" - A slot machine gaming system approved by the commission pursuant to which a common progressive slot machine jackpot is offered on slot machines that are interconnected in more than one casino hotel facility.

C.5:12-100.1 Right to receive annuity jackpot payments.

4. a. The right of any annuity jackpot winner to receive annuity jackpot payments from a slot system operator shall not be assignable, except as permitted by this section. The provisions of this section shall prevail over the provisions of the "Uniform Commercial Code – Secured Transactions," N.J.S.12A:9-101 et seq., including N.J.S.12A:9-406, or any other law to the contrary.

b. Notwithstanding any other provision of this section, annuity jackpot payments may be paid to the estate of a deceased jackpot winner, in the same manner as they were paid to the winner, upon receipt by the slot system operator of a certified copy of an order appointing an executor or an administrator.

c. A person may be assigned and paid the annuity jackpot payments to which an annuity jackpot winner is entitled pursuant to a judicial order of the New Jersey Superior Court or any other court having jurisdiction over property located in this State provided that the order pertains to claims of ownership in the annuity jackpot payments, division of marital property in divorce actions, bankruptcy, child support, appointment of a guardian or conservator, or distribution of an estate.

d. A person may be assigned and paid the annuity jackpot payments to which an annuity jackpot winner is entitled pursuant to a judicial order of the New Jersey Superior Court or any other court having jurisdiction over property located in this State. The annuity jackpot winner and the proposed assignee shall prepare a proposed form of order and submit such proposed order to the court for its consideration. The proposed form of order shall contain the following information:

(1) the full legal name, address, social security number or taxpayer identification number and, if applicable, resident alien number of the winner;

(2) the full legal name, address, social security number or taxpayer identification number and, if applicable, resident alien number of the assignee;

(3) the date on which and the casino where the annuity jackpot was won;

(4) the slot machine game on which the annuity jackpot was won;

(5) the slot system operator primarily responsible for making the annuity jackpot payments;

(6) the gross amount of the annuity jackpot won before application of withholding taxes;

(7) the gross amount of each payment to be made to the winner by the slot system operator before application of withholding taxes;

(8) the dates of the payments to be assigned and the amount of the specific payments to be assigned on each date;

(9) the identity of the winner's spouse, if any, and the interest of the spouse, if any, in the annuity jackpot payments;

(10) the identity of any other co-owner, claimant or lienholder and the amount of the interests, liens, security interests, prior assignments or offsets asserted by each such party;

(11) that the interest rate or discount rate, as applicable, and all fees and costs and other material terms relating to the assignment are expressly and clearly included in all material documents and in all documents that include any obligations of the annuity jackpot winner;

(12) that the interest rate or discount rate, as applicable, and any other fees or charges associated with the assignment do not indicate overreaching or exploitation, do not exceed current usury rates, and does not violate any laws of usury of this State;

(13) that the winner has reviewed and understands the terms of the assignment;

(14) that the winner understands that the winner will not receive the annuity jackpot payments, or portions thereof, for the years assigned;

(15) that the winner has agreed to the assignment of the winner's own free will without undue influence or duress;

(16) that the winner has retained and consulted with independent legal counsel who has advised the winner of the winner's legal rights and obligations;

(17) that the winner has retained and consulted with an independent tax advisor concerning the tax consequences of the assignment;

(18) that the winner has disclosed all existing debts, liens and child support obligations and does not seek assignment for purposes of evading creditors, judgments or obligations for child support; and

(19) that the winner has certified that: the winner is not obligated to repay any public assistance benefits; and the winner does not have a child support obligation, or if the winner does have a child support obligation, that no arrearage is due.

The annuity jackpot winner and the proposed assignee shall provide a copy of the proposed form of order to the slot system operator at least 10 days before the court is scheduled to act on the proposed order to allow the slot system operator the opportunity to ensure that the proposed order is complete and correct in all respects prior to the court's approval.

e. Before a winner is legally bound, by agreement, contract or otherwise, and prior to the issuance of an order pursuant to subsection d. of this section, the assignee shall provide the winner with all material documents which shall be binding on the assignor, including documents evidencing obligations of the winner, and a written notice recommending that the winner obtain independent counsel before signing any document which shall be binding on the assignor. All documents shall include a notice of the assignor's right to cancel the agreement which shall be located in immediate proximity to all spaces reserved for the signature of the winner in bold-faced type of at least 10 points and which shall provide as follows:

"You have the right to cancel this assignment without any cost to you until midnight three business days after the day on which you have signed an agreement to assign all or a portion of your annuity jackpot.

Cancellation occurs when you give notice by regular first class mail, postage prepaid, to the assignee at the address listed at the top of the first page of this document that you wish to cancel the assignment. Notice is deemed given when deposited in a mailbox."

f. The slot system operator shall, not later than 10 days after receiving a true and correct copy of the filed judicial order, send the winner and the assignee written confirmation of receipt of the court-ordered assignment and of the slot system operator's intent to rely thereon in making future payments to the assignee named in the order. The slot system operator shall, thereafter, make all payments in accordance with the judicial order. No change in the terms of any assignment shall be effective unless made pursuant to a subsequent judicial order pursuant to this section.

g. The slot system operator may impose a reasonable fee on an assignor to defray any direct or indirect administrative expenses associated with an assignment.

h. The commission and the State are not parties to assignment proceedings, except that the State may intervene as necessary to protect the State's interest in monies owed to the State.

i. The slot system operator and the State shall comply with, and rely upon, a judicial order in distributing payments subject to that order.

j. A winner may pledge or grant a security interest in all or part of an annuity jackpot as collateral for repayment of a loan pursuant to a judicial order containing the information required by subsection d. of this section which the court deems relevant to the pledge or grant.

k. Except where inconsistent with the provisions of this section, the New Jersey consumer fraud act, P.L.1960, c.39 (C.56:8-1 et seq.), shall apply to all transactions under this section.

l. The provisions of subsections d., e. and j. of this section shall be invalid if:

(1) the United States Internal Revenue Service issues a technical rule letter, revenue ruling, or other public ruling in which it is determined that because of the right of assignment provided by subsection d. of this section, annuity jackpot winners who do not exercise the right to assign annuity jackpot payments would be subject to an immediate income tax liability for the value of the entire annuity jackpot rather than annual income tax liability for each installment when received; or

(2) a court of competent jurisdiction issues a published decision holding that because of the right of assignment provided by subsection d. of this section, annuity jackpot winners who do not exercise the right to assign annuity jackpot payments would be subject to an immediate income tax liability for the value of the entire annuity jackpot rather than annual income tax liability for each installment when received.

m. Upon receipt, the commission shall immediately file a copy of a letter or ruling of the United States Internal Revenue Service or a published decision of a court of competent jurisdiction, described in subsection l. of this section, with the Secretary of State. No assignment shall be approved pursuant to subsection d. of this section after the date of such filing.

n. A voluntary assignment shall not include or cover payments, or portions of payments, that are subject to the offset pursuant to section 5 of this amendatory and supplementary act, P.L.2005, c.46 (C.5:12-100.2), or any other law, unless appropriate provisions are made to satisfy the obligations giving rise to the offset.

o. No assignee shall directly or indirectly recommend or facilitate the hiring of any lawyer or accountant to assist the assignor in determining the appropriateness of the proposed assignment. Further, the assignee shall not offer, prior to the closing, tax or investment advice.

C.5:12-100.2 Prompt notice of award of annuity jackpot; offset, lien for child support arrearages.

5. a. Each slot system operator that awards an annuity jackpot shall provide prompt notice to the commission of the name, address and social security number of each annuity jackpot winner and the amount of the pending payments. The commission shall forward such information to the Office of Information Technology in the Department of the Treasury.

b. The Office of Information Technology shall cross check the annuity jackpot winner list with the data supplied by the Commissioner of Human Services pursuant to section 2 of P.L.1991, c.384 (C.5:9-13.2) for a social security number match. If a match is made, the Office of Information Technology shall notify the Commissioner of Human Services.

c. If an annuity jackpot winner is in arrears of a child support order, or is a former recipient of Aid to Families with Dependent Children or Work First New Jersey, food stamp benefits or low-income home energy assistance benefits who has incurred an overpayment which has not been repaid, the Probation Division of the Superior Court or the Department of Human Services, as appropriate, shall promptly notify the slot system operator of the name, address, social security number and amount due on an arrears child support order or the amount due on an overpayment. The slot system operator shall withhold this amount from the pending annuity jackpot payment and transmit same to the Probation Division of the Superior Court or the Department of Human Services, as appropriate, in accordance with regulations promulgated by the State Treasurer.

d. The Probation Division of the Superior Court, acting as agent for the child support payee or the county welfare agency that provided the public assistance benefits, as appropriate, shall have a lien on the proceeds of the annuity jackpot payment in an amount equal to the amount of child support arrearage or the amount of overpayment incurred, as appropriate. The lien imposed by this section shall be enforceable in the Superior Court. Any of the annuity jackpot winner's funds remaining after withholding pursuant to the lien established pursuant to this section shall be paid to the winner in accordance with the rules of the commission.

e. The Commissioner of Human Services shall promulgate such regulations as may be necessary to effectuate the purposes of this section including, but not limited to, regulations providing for prompt notice to any annuity jackpot winner, from whose payments the Probation Division of the Superior Court or the Department of the Human Services seeks to withhold funds, of the amount to be withheld and the reason therefor and providing the annuity jackpot winner with the opportunity for a hearing upon request prior to the disposition of any funds.

f. The State Treasurer shall also provide, by regulation, safeguards against the disclosure or inappropriate use of any personally identifiable information regarding any person obtained pursuant to this section.

g. For the purposes of this section, "prompt notice" shall mean notice within 14 days or less.

6. This act shall take effect immediately.

Approved March 21, 2005.