



1997 ASSEMBLY BILL 942

March 20, 1998 - Introduced by Representatives KAUFERT, HUBLER and ALBERS, cosponsored by Senators MOEN and SCHULTZ. Referred to calendar.

1 **AN ACT** *to renumber and amend* 565.30 (5m) and 565.37 (5r); *to amend* 71.04
2 (1) (a), 71.04 (9), 71.23 (1), 71.23 (2), 71.25 (5) (b), 71.26 (1) (a), 71.362 (1), 71.362
3 (2), 71.43 (1), 71.43 (2), 71.45 (1), 71.46 (3), 71.67 (4) (a) and 565.30 (5); *to repeal*
4 *and recreate* 565.30 (5) and 565.30 (6); and *to create* 71.45 (2) (a) 15., 71.45
5 (3r), 565.02 (2) (e), 565.30 (5m) (b), 565.30 (5t) and 565.37 (5r) (b) of the statutes;
6 **relating to:** the assignment of lottery prizes, taxation of persons that buy or
7 sell lottery tickets and granting rule-making authority.

Analysis by the Legislative Reference Bureau

Assignment of lottery prizes

Under current law, the right of any person to a lottery prize may not be assigned. This bill establishes a process through which a person may make a voluntary assignment of a lottery prize or part of a lottery prize pursuant to a court order. Under the bill, a person who intends to voluntarily assign part or all of a lottery prize must petition the circuit court of the county in which he or she resides or the circuit court of Dane County for a court order confirming the assignment. The circuit court is required to issue an order confirming the assignment only if all of the following conditions are satisfied:

1. The assignor is represented by independent legal counsel.
2. A copy of the assignment is attached to the petition.

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3. The assignment is in writing, is executed by the assignor and is subject to the laws of this state.

4. The contract for the assignment provides that the assignor has the right to cancel the contract until midnight of the 3rd business day after the date on which the assignor entered into the contract.

5. The contract for the assignment provides that the assignor, from the proceeds received from the individual or organization to whom part or all of the lottery prize is assigned, agrees to pay in full any delinquent tax or support payments that may be owed by the assignor.

6. The assignor attests, by sworn affidavit, that he or she is of sound mind, is not acting under duress and acknowledges that the state will not make any of the assigned lottery prize payments or parts of lottery prize payments to the assignor.

7. The assignor, by sworn affidavit, provides the court with an accounting of all claims to, or judgments, liens, security interests, garnishments, assignments or attachments against, all or any part of the lottery prize payments.

8. The assignment does not include the amounts of any withholdings otherwise required to be withheld by law.

9. The assignor provides the court a certification from the administrator that lists the amounts of the lottery prize payments, if any, that the administrator is required to withhold for the assignor.

10. The payment that the assignor will receive as compensation for the assignment is at least equal to the present value of the assigned lottery prize payments, discounted at a rate no greater than the weekly prime rate for the week prior to the date on which the court received a copy of the assignment, as reported by the federal reserve board in federal reserve statistical release H. 15, plus 6%.

11. The individual or organization to whom part or all of the lottery prize is assigned specifies in an affidavit that the individual or organization agrees to report and pay any state income or franchise tax that is owed on any income or gain realized from the purchase and subsequent sale or redemption of any lottery prize.

If the court issues an order confirming the assignment, the individual or organization to whom the lottery prize is assigned must provide a certified copy of the court order to the administrator of the lottery division in the department of revenue. The administrator must acknowledge receipt of the court order in writing to the individual or organization and must make all lottery prize payments according to the terms specified in the court order. Under the bill, the administrator is authorized to charge an initial processing fee, in an amount determined by rule, to cover any costs associated with processing the lottery prize payments in accordance with the terms specified in the court order.

Use of lottery prizes as security for loans

In addition, the bill establishes a process through which a person may use a lottery prize or part of a lottery prize as security for a loan. Under the bill, a lottery prize winner who intends to use part or all of a lottery prize as security for a loan shall petition the circuit court of the county in which the prize winner resides or the circuit court of Dane County for a court order confirming the use of a lottery prize as security for a loan. The circuit court of the county in which the prize winner resides or the

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circuit court of Dane County shall issue an order confirming the use of a lottery prize as security for a loan only if all of the following occur:

1. The prize winner is represented by independent legal counsel.
2. A copy of the contract that provides for using any part of the lottery prize as security for the loan is attached to the petition.
3. The contract is executed by the prize winner, is subject to the laws of this state and provides that the prize winner has the right to cancel the contract until midnight of the 3rd business day after the date on which the prize winner entered into the contract.
4. The prize winner attests, by sworn affidavit, that he or she is of sound mind, is not acting under duress and acknowledges that the state will not make any of the lottery prize payments or parts of lottery prize payments to the prize winner that are being used as security for the loan in the event the prize winner defaults on the loan.
5. The prize winner, by sworn affidavit, provides the court with an accounting of all claims to, or judgments, liens, security interests, garnishments, assignments or attachments against, all or any part of the lottery prize payments.
6. The prize winner provides the court a certification from the administrator that lists the amounts of the lottery prize payments, if any, that the administrator is required to withhold for the prize winner.
7. The part of the lottery prize that is being used as security for the loan does not include the amounts of any withholdings otherwise required to be withheld by law.
8. The court determines that the interest rate on the loan does not exceed the weekly prime rate for the week prior to the date on which the court received a copy of the contract, as reported by the federal reserve board in federal reserve statistical release H. 15, plus 6%.

If the court issues an order confirming the use of the lottery prize as security for a loan, the individual or organization making the loan must provide a certified copy of the court order to the administrator of the lottery division in the department of revenue. The administrator must acknowledge receipt of the court order in writing to the individual or organization making the loan and must make all lottery prize payments according to the terms specified in the court order. Under the bill, the administrator is authorized to charge an initial processing fee, in an amount determined by rule, to cover any costs associated with processing the lottery prize payments in accordance with the terms specified in the court order.

Taxation of lottery prizes

Finally, the bill imposes the income tax and franchise tax on all income that is realized from the purchase and subsequent sale or redemption of lottery prizes if the winning tickets were originally bought in this state.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

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1 **SECTION 1.** 71.04 (1) (a) of the statutes, as affected by 1997 Wisconsin Act 27,
2 is amended to read:

3 71.04 (1) (a) All income or loss of resident individuals and resident estates and
4 trusts shall follow the residence of the individual, estate or trust. Income or loss of
5 nonresident individuals and nonresident estates and trusts from business, not
6 requiring apportionment under sub. (4), (10) or (11), shall follow the situs of the
7 business from which derived, except that all income that is realized from the
8 purchase and subsequent sale or redemption of lottery prizes if the winning tickets
9 were originally bought in Wisconsin shall be allocated to this state. All items of
10 income, loss and deductions of nonresident individuals and nonresident estates and
11 trusts derived from a tax-option corporation not requiring apportionment under
12 sub. (9) shall follow the situs of the business of the corporation from which derived,
13 except that all income that is realized from the purchase and subsequent sale or
14 redemption of lottery prizes if the winning tickets were originally bought in
15 Wisconsin shall be allocated to this state. Income or loss of nonresident individuals
16 and nonresident estates and trusts derived from rentals and royalties from real
17 estate or tangible personal property, or from the operation of any farm, mine or
18 quarry, or from the sale of real property or tangible personal property shall follow the
19 situs of the property from which derived. Income from personal services of
20 nonresident individuals, including income from professions, shall follow the situs of
21 the services. A nonresident limited partner's distributive share of partnership
22 income shall follow the situs of the business, except that all income that is realized
23 from the purchase and subsequent sale or redemption of lottery prizes if the winning
24 tickets were originally bought in Wisconsin shall be allocated to this state. A
25 nonresident limited liability company member's distributive share of limited

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1 liability company income shall follow the situs of the business, except that all income
2 that is realized from the purchase and subsequent sale or redemption of lottery
3 prizes if the winning tickets were originally bought in Wisconsin shall be allocated
4 to this state. Income of nonresident individuals, estates and trusts from the state
5 lottery under ch. 565 is taxable by this state. Income of nonresident individuals,
6 estates and trusts from any multijurisdictional lottery under ch. 565 is taxable by
7 this state, but only if the winning lottery ticket or lottery share was purchased from
8 a retailer, as defined in s. 565.01 (6), located in this state or from the department.
9 Income of nonresident individuals, nonresident trusts and nonresident estates from
10 pari-mutuel winnings or purses under ch. 562 is taxable by this state. All other
11 income or loss of nonresident individuals and nonresident estates and trusts,
12 including income or loss derived from land contracts, mortgages, stocks, bonds and
13 securities or from the sale of similar intangible personal property, shall follow the
14 residence of such persons, except as provided in par. (b) and sub. (9), except that all
15 income that is realized from the purchase and subsequent sale or redemption of
16 lottery prizes if the winning tickets were originally bought in Wisconsin shall be
17 allocated to this state.

18 **SECTION 2.** 71.04 (9) of the statutes is amended to read:

19 71.04 (9) NONRESIDENT INCOME FROM MULTISTATE TAX-OPTION CORPORATION.
20 Nonresident individuals and nonresident estates and trusts deriving income from a
21 tax-option corporation which is engaged in business within and without this state
22 shall be taxed only on the income of the corporation derived from business transacted
23 and property located in this state and losses and other items of the corporation
24 deductible by such shareholders shall be limited to their proportionate share of the
25 Wisconsin loss or other item, except that all income that is realized from the purchase

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1 and subsequent sale or redemption of lottery prizes if the winning tickets were
2 originally bought in Wisconsin shall be allocated to this state. For purposes of this
3 subsection, all intangible income of tax-option corporations passed through to
4 shareholders is business income that follows the situs of the business, except that all
5 income that is realized from the purchase and subsequent sale or redemption of
6 lottery prizes if the winning tickets were originally bought in Wisconsin shall be
7 allocated to this state.

8 **SECTION 3.** 71.23 (1) of the statutes is amended to read:

9 71.23 (1) INCOME TAX. For the purpose of raising revenue for the state and the
10 counties, cities, villages and towns, there shall be assessed, levied, collected and paid
11 a tax as provided under this chapter on all Wisconsin net incomes of corporations
12 which are not subject to the franchise tax under sub. (2) and which own property
13 within this state ~~or~~; whose business within this state during the taxable year, except
14 as provided under sub. (3), consists exclusively of foreign commerce, interstate
15 commerce, or both, or that buy or sell lottery prizes if the winning tickets were
16 originally bought in Wisconsin; except as exempted under s. 71.26 (1). This section
17 shall not be construed to prevent or affect the correction of errors or omissions in the
18 assessments of income for former years under s. 71.74 (1) and (2).

19 **SECTION 4.** 71.23 (2) of the statutes is amended to read:

20 71.23 (2) FRANCHISE TAX. For the privilege of exercising its franchise, buying
21 or selling lottery prizes if the winning tickets were originally bought in Wisconsin or
22 doing business in this state in a corporate capacity, except as provided under sub. (3),
23 every domestic or foreign corporation, except corporations specified in s. 71.26 (1),
24 and every nuclear decommissioning trust or reserve fund shall annually pay a
25 franchise tax according to or measured by its entire Wisconsin net income of the

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1 preceding taxable year at the rate set forth in s. 71.27 (2). In addition, except as
2 provided in sub. (3) and s. 71.26 (1), a corporation that ceases doing business in this
3 state and a nuclear decommissioning trust or reserve fund that is terminated shall
4 pay a special franchise tax according to or measured by its entire Wisconsin net
5 income for the taxable year during which the corporation ceases doing business in
6 this state or the nuclear decommissioning trust or reserve fund is terminated at the
7 rates under s. 71.27 (2). Every corporation organized under the laws of this state
8 shall be deemed to be residing within this state for the purposes of this franchise tax.
9 All provisions of this chapter and ch. 73 relating to income taxation of corporations
10 shall apply to franchise taxes imposed under this subsection, unless the context
11 requires otherwise. The tax imposed by this subsection on national banking
12 associations shall be in lieu of all taxes imposed by this state on national banking
13 associations to the extent it is not permissible to tax such associations under federal
14 law.

15 **SECTION 5.** 71.25 (5) (b) of the statutes is amended to read:

16 71.25 (5) (b) *Nonapportionable income.* 1. Income, gain or loss from the sale
17 of nonbusiness real property or nonbusiness tangible personal property, rental of
18 nonbusiness real property or nonbusiness tangible personal property and royalties
19 from nonbusiness real property or nonbusiness tangible personal property are
20 nonapportionable and shall be allocated to the situs of the property, except that all
21 income that is realized from the purchase and subsequent sale or redemption of
22 lottery prizes if the winning tickets were originally bought in Wisconsin shall be
23 allocated to this state.

24 2. All income, gain or loss from intangible property that is earned by a personal
25 holding company, as defined in section 542 of the internal revenue code, as amended

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1 to December 31, 1974, shall be allocated to the residence of the taxpayer, except that
2 all income that is realized from the purchase and subsequent sale or redemption of
3 lottery prizes if the winning tickets were originally bought in Wisconsin shall be
4 allocated to this state.

5 **SECTION 6.** 71.26 (1) (a) of the statutes is amended to read:

6 71.26 (1) (a) *Certain corporations.* Income of corporations organized under ch.
7 185, except income of a cooperative sickness care association organized under s.
8 185.981, or of a service insurance corporation organized under ch. 613, that is derived
9 from a health maintenance organization as defined in s. 609.01 (2) or a limited
10 service health organization as defined in s. 609.01 (3), or operating under subch. I
11 of ch. 616 which are bona fide cooperatives operated without pecuniary profit to any
12 shareholder or member, or operated on a cooperative plan pursuant to which they
13 determine and distribute their proceeds in substantial compliance with s. 185.45,
14 and the income, except the unrelated business taxable income as defined in section
15 512 of the internal revenue code and except income that is derived from a health
16 maintenance organization as defined in s. 609.01 (2) or a limited service health
17 organization as defined in s. 609.01 (3), of all religious, scientific, educational,
18 benevolent or other corporations or associations of individuals not organized or
19 conducted for pecuniary profit. This paragraph does not apply to the income of
20 savings banks, mutual loan corporations or savings and loan associations. This
21 paragraph does not apply to income that is realized from the purchase and
22 subsequent sale or redemption of lottery prizes if the winning tickets were originally
23 bought in Wisconsin. This paragraph applies to the income of credit unions except
24 to the income of any credit union that is derived from public deposits for any taxable
25 year in which the credit union is approved as a public depository under ch. 34 and

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1 acts as a depository of state or local funds under s. 186.113 (20). For purposes of this
2 paragraph, the income of a credit union that is derived from public deposits is the
3 product of the credit union's gross annual income for the taxable year multiplied by
4 a fraction, the numerator of which is the average monthly balance of public deposits
5 in the credit union during the taxable year, and the denominator of which is the
6 average monthly balance of all deposits in the credit union during the taxable year.

7 **SECTION 7.** 71.362 (1) of the statutes is amended to read:

8 71.362 (1) All tax-option items of nonresident individuals, nonresident estates
9 and nonresident trusts derived from a tax-option corporation not requiring
10 apportionment under sub. (2) shall follow the situs of the business of the corporation
11 from which they are derived, except that all income that is realized from the purchase
12 and subsequent sale or redemption of lottery prizes if the winning tickets were
13 originally bought in Wisconsin shall be allocated to this state.

14 **SECTION 8.** 71.362 (2) of the statutes is amended to read:

15 71.362 (2) Nonresident individuals, nonresident estates and nonresident
16 trusts deriving income from a tax-option corporation which is engaged in business
17 within and without this state shall be taxed only on the income of the corporation
18 derived from business transacted and property located in this state and losses and
19 other items of the corporation deductible by such shareholders shall be limited to
20 their proportionate share of the Wisconsin loss or other item, except that all income
21 that is realized from the purchase and subsequent sale or redemption of lottery
22 prizes if the winning tickets were originally bought in Wisconsin shall be allocated
23 to this state. For purposes of this subsection, all intangible income of tax-option
24 corporations passed through to shareholders is business income that follows the
25 situs of the business, except that all income that is realized from the purchase and

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1 subsequent sale or redemption of lottery prizes if the winning tickets were originally
2 bought in Wisconsin shall be allocated to this state.

3 **SECTION 9.** 71.43 (1) of the statutes is amended to read:

4 71.43 (1) INCOME TAX. For the purpose of raising revenue for the state and the
5 counties, cities, villages and towns, there shall be assessed, levied, collected and paid
6 a tax as provided under this chapter on all Wisconsin net incomes of corporations
7 which are not subject to the franchise tax under sub. (2) and which own property
8 within this state or whose business within this state during the taxable year, except
9 as provided under s. 71.23 (3), consists exclusively of foreign commerce, interstate
10 commerce, or both, or that buy or sell lottery prizes if the winning tickets were
11 originally bought in Wisconsin; except as exempted under ss. 71.26 (1) and 71.45 (1).
12 This section shall not be construed to prevent or affect the correction of errors or
13 omissions in the assessments of income for former years under s. 71.74 (1) and (2).

14 **SECTION 10.** 71.43 (2) of the statutes is amended to read:

15 71.43 (2) FRANCHISE TAX ON CORPORATIONS. For the privilege of exercising its
16 franchise, buying or selling lottery prizes if the winning tickets were originally
17 bought in Wisconsin or doing business in this state in a corporate capacity, except as
18 provided under s. 71.23 (3), every domestic or foreign corporation, except
19 corporations specified in ss. 71.26 (1) and 71.45 (1), shall annually pay a franchise
20 tax according to or measured by its entire Wisconsin net income of the preceding
21 taxable year at the rates set forth in s. 71.46 (2). In addition, except as provided in
22 ss. 71.23 (3), 71.26 (1) and 71.45 (1), a corporation that ceases doing business in this
23 state shall pay a special franchise tax according to or measured by its entire
24 Wisconsin net income for the taxable year during which the corporation ceases doing
25 business in this state at the rate under s. 71.46 (2). Every corporation organized

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1 under the laws of this state shall be deemed to be residing within this state for the
2 purposes of this franchise tax. All provisions of this chapter and ch. 73 relating to
3 income taxation of corporations shall apply to franchise taxes imposed under this
4 subsection, unless the context requires otherwise. The tax imposed by this
5 subsection on insurance companies subject to taxation under this chapter shall be
6 based on Wisconsin net income computed under s. 71.45, and no other provision of
7 this chapter relating to computation of taxable income for other corporations shall
8 apply to such insurance companies. All other provisions of this chapter shall apply
9 to insurance companies subject to taxation under this chapter unless the context
10 clearly requires otherwise.

11 **SECTION 11.** 71.45 (1) of the statutes is amended to read:

12 71.45 (1) EXEMPT AND EXCLUDABLE INCOME. There shall be exempt from taxation
13 under this subchapter income of insurers exempt from federal income taxation
14 pursuant to section 501 (c) (15) of the internal revenue code, town mutuals organized
15 under or subject to ch. 612, foreign insurers, and domestic insurers engaged
16 exclusively in life insurance business, domestic insurers insuring against financial
17 loss by reason of nonpayment of principal, interest and other sums agreed to be paid
18 under the terms of any note or bond or other evidence of indebtedness secured by a
19 mortgage, deed of trust or other instrument constituting a lien or charge on real
20 estate and corporations organized under ch. 185, but not including income of
21 cooperative sickness care associations organized under s. 185.981, or of a service
22 insurance corporation organized under ch. 613, that is derived from a health
23 maintenance organization as defined in s. 609.01 (2) or a limited service health
24 organization as defined in s. 609.01 (3), or operating under subch. I of ch. 616 which
25 are bona fide cooperatives operated without pecuniary profit to any shareholder or

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1 member, or operated on a cooperative plan pursuant to which they determine and
2 distribute their proceeds in substantial compliance with s. 185.45. This subsection
3 does not apply to income that is realized from the purchase and subsequent sale or
4 redemption of lottery prizes if the winning tickets were originally bought in
5 Wisconsin.

6 **SECTION 12.** 71.45 (2) (a) 15. of the statutes is created to read:

7 71.45 (2) (a) 15. By subtracting from federal taxable income all income that is
8 realized from the purchase and subsequent sale or redemption of lottery prizes that
9 is treated as nonapportionable income under sub. (3r).

10 **SECTION 13.** 71.45 (3r) of the statutes is created to read:

11 71.45 (3r) ALLOCATION OF CERTAIN PROCEEDS. All income that is realized from
12 the purchase and subsequent sale or redemption of lottery prizes if the winning
13 tickets were originally bought in Wisconsin shall be allocated to this state.

14 **SECTION 14.** 71.46 (3) of the statutes is amended to read:

15 71.46 (3) The tax imposed under this subchapter on each domestic insurer on
16 or measured by its entire net income attributable to lines of insurance in this state
17 may not exceed 2% of the gross premiums, as defined in s. 76.62, received during the
18 taxable year by the insurer on all policies on those lines of insurance if the subject
19 of that insurance was resident, located or to be performed in this state plus 7.9% of
20 the income realized from the purchase and subsequent sale or redemption of lottery
21 prizes if the winning tickets were originally bought in Wisconsin.

22 **SECTION 15.** 71.67 (4) (a) of the statutes, as affected by 1997 Wisconsin Act 27,
23 is amended to read:

24 71.67 (4) (a) The administrator of the lottery division in the department under
25 ch. 565 shall withhold from any lottery prize of \$2,000 or more an amount determined

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1 by multiplying the amount of the prize by the highest rate applicable to individuals
2 under s. 71.06 (1) or (1m) the person who claims the prize. The administrator shall
3 deposit the amounts withheld, on a monthly basis, as would an employer depositing
4 under s. 71.65 (3) (a).

5 **SECTION 16.** 565.02 (2) (e) of the statutes is created to read:

6 565.02 (2) (e) If requested by a lottery prize winner to provide a certification
7 that lists the amounts of the lottery prize payments, if any, that the administrator
8 is required to withhold under ss. 565.30 (4), (5) and (5m) and 565.37 (5r), the
9 administrator shall provide the certification.

10 **SECTION 17.** 565.30 (5) of the statutes, as affected by 1997 Wisconsin Act 27,
11 is amended to read:

12 565.30 (5) WITHHOLDING OF DELINQUENT STATE TAXES, CHILD SUPPORT OR DEBTS
13 OWED THE STATE. The administrator shall report the name, address and social security
14 number of each winner of a lottery prize equal to or greater than \$1,000 and each
15 person to whom a lottery prize equal to or greater than \$1,000 has been assigned to
16 the department of revenue to determine whether the payee or assignee of the prize
17 is delinquent in the payment of state taxes under ch. 71, 72, 76, 77, 78 or 139 or in
18 court-ordered payment of child support or has a debt owing to the state. Upon
19 receipt of a report under this subsection, the department of revenue shall first
20 ascertain based on certifications by the department of workforce development under
21 s. 49.855 (2) whether any person named in the report is currently delinquent in
22 court-ordered payment of child support and shall next certify to the administrator
23 whether any person named in the report is delinquent in court-ordered payment of
24 child support or payment of state taxes under ch. 71, 72, 76, 77, 78 or 139. Upon this
25 certification by the department of revenue or upon court order the administrator

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1 shall withhold the certified amount and send it to the department of revenue for
2 remittance to the appropriate agency or person. At the time of remittance, the
3 department of revenue shall charge its administrative expenses to the state agency
4 that has received the remittance. The administrative expenses received by the
5 department of revenue shall be credited to the appropriation under s. 20.566 (1) (h).
6 In instances in which the payee or assignee of the prize is delinquent both in
7 payments for state taxes and in court-ordered payments of child support, or is
8 delinquent in one or both of these payments and has a debt owing to the state, the
9 amount remitted to the appropriate agency or person shall be in proportion to the
10 prize amount as is the delinquency or debt owed by the payee or assignee.

11 **SECTION 18.** 565.30 (5) of the statutes, as affected by 1997 Wisconsin Act
12 (this act), is repealed and recreated to read:

13 **565.30 (5) WITHHOLDING OF DELINQUENT STATE TAXES, CHILD SUPPORT OR DEBTS**
14 **OWED THE STATE.** The administrator shall report the name, address and social security
15 number of each winner of a lottery prize equal to or greater than \$1,000 and each
16 person to whom a lottery prize equal to or greater than \$1,000 has been assigned to
17 the department of revenue to determine whether the payee or assignee of the prize
18 is delinquent in the payment of state taxes under ch. 71, 72, 76, 77, 78 or 139 or in
19 court-ordered payment of child support or has a debt owing to the state. Upon
20 receipt of a report under this subsection, the department of revenue shall first
21 ascertain based on certifications by the department of workforce development or its
22 designee under s. 49.855 (1) whether any person named in the report is currently
23 delinquent in court-ordered payment of child support and shall next certify to the
24 administrator whether any person named in the report is delinquent in
25 court-ordered payment of child support or payment of state taxes under ch. 71, 72,

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1 76, 77, 78 or 139. Upon this certification by the department of revenue or upon court
2 order the administrator shall withhold the certified amount and send it to the
3 department of revenue for remittance to the appropriate agency or person. At the
4 time of remittance, the department of revenue shall charge its administrative
5 expenses to the state agency that has received the remittance. The administrative
6 expenses received by the department of revenue shall be credited to the
7 appropriation under s. 20.566 (1) (h). In instances in which the payee or assignee of
8 the prize is delinquent both in payments for state taxes and in court-ordered
9 payments of child support, or is delinquent in one or both of these payments and has
10 a debt owing to the state, the amount remitted to the appropriate agency or person
11 shall be in proportion to the prize amount as is the delinquency or debt owed by the
12 payee.

13 **SECTION 19.** 565.30 (5m) of the statutes, as affected by 1997 Wisconsin Act 35,
14 is renumbered 565.30 (5m) (a) and amended to read:

15 565.30 **(5m)** (a) The administrator shall report to the department of workforce
16 development the name, address and social security number of each winner of a
17 lottery prize that is payable in instalments and the name, address and social security
18 number or federal income tax number of the person who has been assigned a lottery
19 prize that is payable in instalments. Upon receipt of the report, the department of
20 workforce development shall certify to the administrator whether any payee or
21 assignee named in the report is obligated to provide child support, spousal support,
22 maintenance or family support under s. 767.02 (1) (f) or (g), 767.10, 767.23, 767.25,
23 767.26, 767.261, 767.465 (2m), 767.51 (3) or 948.22 (7) or ch. 769 and the amount
24 required to be withheld from the lottery prize under s. 767.265. The Subject to par.
25 (b), the administrator shall withhold the certified amount from each payment made

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1 to the winner or assignee and shall remit the certified amount to the department of
2 workforce development.

3 **SECTION 20.** 565.30 (5m) (b) of the statutes is created to read:

4 565.30 (5m) (b) The administrator may not withhold from any payment to an
5 assignee of a lottery prize any child support, spousal support, maintenance or family
6 support specified in par. (a) that is owed by a winner of a lottery prize, nor may the
7 administrator withhold from any payment to a winner any child support, spousal
8 support maintenance or family support that is owed by an assignee.

9 **SECTION 21.** 565.30 (5t) of the statutes is created to read:

10 565.30 (5t) USE OF LOTTERY PRIZE AS SECURITY FOR LOAN. (a) *Definition.* In this
11 subsection, “prize winner” means a person who has won a lottery prize and any other
12 person who is authorized by law to use a lottery prize as security for a loan.

13 (b) *Security for a loan.* A prize winner may use a lottery prize or part of a lottery
14 prize as security for a loan only pursuant to a court order issued under this
15 subsection.

16 (c) *Judicial process for using lottery prizes as security for loans.* Any prize
17 winner who intends to use part or all of a lottery prize as security for a loan shall
18 petition the circuit court of the county in which the prize winner resides or the circuit
19 court of Dane County for a court order confirming the use of a lottery prize as security
20 for a loan. The circuit court of the county in which the prize winner resides or the
21 circuit court of Dane County shall issue an order confirming the use of a lottery prize
22 as security for a loan only if all of the following occur:

23 1. The prize winner is represented by independent legal counsel.

24 2. A copy of the contract that provides for using any part of the lottery prize as
25 security for the loan is attached to the petition.

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1 3. The contract is executed by the prize winner, is subject to the laws of this
2 state and provides that the prize winner has the right to cancel the contract until
3 midnight of the 3rd business day after the date on which the prize winner entered
4 into the contract.

5 4. The prize winner attests, by sworn affidavit, that he or she is of sound mind,
6 is not acting under duress and acknowledges that the state will not make any of the
7 lottery prize payments or parts of lottery prize payments to the prize winner that are
8 being used as security for the loan in the event the prize winner defaults on the loan.

9 5. The prize winner, by sworn affidavit, provides the court with an accounting
10 of all claims to, or judgments, liens, security interests, garnishments, assignments
11 or attachments against, all or any part of the lottery prize payments.

12 6. The prize winner provides the court a certification from the administrator
13 that lists the amounts of the lottery prize payments, if any, that the administrator
14 is required to withhold for the prize winner under subs. (4), (5) and (5m) and s. 565.37
15 (5r).

16 7. The part of the lottery prize that is being used as security for the loan does
17 not include the amounts of any withholdings specified under subs. (4), (5) and (5m)
18 and s. 565.37 (5r).

19 8. The court determines that the interest rate on the loan does not exceed the
20 weekly prime rate for the week prior to the date on which the court received a copy
21 of the contract, as reported by the federal reserve board in federal reserve statistical
22 release H. 15, plus 6%. In making the calculation under this subdivision, the court
23 shall subtract from the compensation received by the individual or organization
24 making the loan any required fees or other costs charged the prize winner.

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1 (d) *Contents of court order.* A court order issued under par. (c) shall include all
2 of the following:

3 1. The name of the prize winner.

4 2. The prize winner's social security number if the prize winner is an
5 individual, or federal income tax identification number if the prize winner is an
6 organization.

7 3. The name of the individual or organization that is making the loan to the
8 prize winner.

9 4. The social security number of the individual or the federal income tax
10 identification number of the organization that is making the loan to the prize winner.

11 5. If an individual is making the loan to the prize winner, the citizenship of the
12 individual. If the individual is not a citizen of the United States of America, the order
13 shall include the individual's resident alien number.

14 (e) *Administration.* Upon receipt of a court order issued under par. (c), the
15 individual or organization making the loan shall provide a certified copy of the court
16 order to the administrator. The administrator shall acknowledge receipt of the court
17 order in writing to the individual or organization making the loan and shall make
18 all lottery prize payments according to the terms specified in the court order. The
19 administrator may charge an initial processing fee, in an amount determined by
20 rule, to cover any costs associated with processing the lottery prize payments in
21 accordance with the terms specified in the court order.

22 **SECTION 22.** 565.30 (6) of the statutes is repealed and recreated to read:

23 565.30 (6) VOLUNTARY ASSIGNMENT OF LOTTERY PRIZE. (a) *Definition.* In this
24 subsection, "assignor" means a lottery prizewinner or a person who has the right to
25 assign all or part of a lottery prize.

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1 (b) *Voluntary assignment.* An assignor may make a voluntary assignment of
2 a lottery prize or part of a lottery prize only pursuant to a court order issued under
3 this subsection.

4 (c) *Judicial process for assignment.* Any assignor who intends to voluntarily
5 assign part or all of a lottery prize to any individual or organization shall petition the
6 circuit court of the county in which the assignor resides or the circuit court of Dane
7 County for a court order confirming the assignment. The circuit court of the county
8 in which the assignor resides or the circuit court of Dane County shall issue an order
9 confirming the assignment only if all of the following occur:

10 1. The assignor is represented by independent legal counsel.

11 2. A copy of the assignment is attached to the petition.

12 3. The assignment is in writing, is executed by the assignor and is subject to
13 the laws of this state.

14 3m. The contract for the assignment provides that the assignor has the right
15 to cancel the contract until midnight of the 3rd business day after the date on which
16 the assignor entered into the contract.

17 3r. The contract for the assignment provides that the assignor, from the
18 proceeds received from the individual or organization to whom part or all of the
19 lottery prized is assigned, agrees to pay in full any delinquent payments that may
20 be owed by the assignor under subs. (4), (5) and (5m) and s. 565.37 (5r).

21 4. The assignor attests, by sworn affidavit, that he or she is of sound mind, is
22 not acting under duress and acknowledges that the state will not make any of the
23 assigned lottery prize payments or parts of lottery prize payments to the assignor.

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1 5. The assignor, by sworn affidavit, provides the court with an accounting of all
2 claims to, or judgments, liens, security interests, garnishments, assignments or
3 attachments against, all or any part of the lottery prize payments.

4 6. The assignment does not include the amounts of any withholdings specified
5 under sub. (4), (5) or (5m) or s. 565.37 (5r).

6 7. The assignor provides the court a certification from the administrator that
7 lists the amounts of the lottery prize payments, if any, that the administrator is
8 required to withhold for the assignor under subs. (4), (5) and (5m) and s. 565.37 (5r).

9 8. The payment that the assignor will receive as compensation for the
10 assignment is at least equal to the present value of the assigned lottery prize
11 payments, discounted at a rate no greater than the weekly prime rate for the week
12 prior to the date on which the court received a copy of the assignment, as reported
13 by the federal reserve board in federal reserve statistical release H. 15, plus 6%. In
14 making the calculation under this subdivision, the court shall subtract from the
15 compensation received by the assignor any required fees or other costs charged the
16 assignor.

17 9. The individual or organization to whom part or all of the lottery prized is
18 assigned specifies in an affidavit that the individual or organization agrees to report
19 and pay any state income or franchise tax that is owed on any income or gain realized
20 from the purchase and subsequent sale or redemption of any lottery prize.

21 (d) *Contents of court order.* A court order issued under par. (c) shall include all
22 of the following:

23 1. The name of the prizewinner or the name of the assignor, if different from
24 the prizewinner.

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1 2. The assignor's social security number if the assignor is an individual, or
2 federal income tax identification number if the assignor is an organization.

3 3. The name of the individual or organization to whom part or all of the lottery
4 prize is assigned.

5 4. The social security number of the individual or the federal income tax
6 identification number of the organization to whom part or all of the lottery prize is
7 assigned.

8 5. If part or all of the lottery prize is assigned to an individual, the citizenship
9 of the individual. If the individual is not a citizen of the United States of America,
10 the order shall include the individual's resident alien number.

11 6. The number of assigned lottery prize payments and the dates on which the
12 assigned lottery prize payments are to be paid.

13 7. The gross amount of each of the lottery prize payments that are subject to
14 withholding for tax purposes and that are assigned.

15 (e) *Administration of lottery prize assignment.* Upon receipt of a court order
16 issued under par. (c), the individual or organization to whom the lottery prize is
17 assigned shall provide a certified copy of the court order to the administrator. The
18 administrator shall acknowledge receipt of the court order in writing to the
19 individual or organization to whom the lottery prize is assigned and shall make all
20 lottery prize payments according to the terms specified in the court order. The
21 administrator may charge an initial processing fee, in an amount determined by
22 rule, to cover any costs associated with processing the lottery prize payments in
23 accordance with the terms specified in the court order.

24 **SECTION 23.** 565.37 (5r) of the statutes is renumbered 565.37 (5r) (a) and
25 amended to read:

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1 565.37 (5r) (a) If the administrator receives a notice of the assignment of lottery
2 prizes under s. 973.05 (4) (b), he or she shall periodically determine if the person
3 subject to the assignment is a winner or assignee of a lottery prize that is payable in
4 instalments. If the administrator determines that a person subject to an assignment
5 of lottery prizes under s. 973.05 (4) (b) is a winner or assignee of a lottery prize that
6 is payable in instalments, the administrator, subject to par. (b), shall withhold the
7 amount of the judgment that is the basis of the assignment from the next instalment
8 payment. The administrator shall submit the withheld amount to the court that
9 issued the assignment. The administrator shall notify the winner or assignee of the
10 reason that the amount is withheld from the lottery prize. If the initial instalment
11 payment is insufficient to pay the judgment, the administrator shall withhold and
12 submit to the court an amount from any additional instalment payments until the
13 judgment is paid in full or until the court notifies the administrator that the
14 judgment is paid and the assignment is no longer in effect.

15 **SECTION 24.** 565.37 (5r) (b) of the statutes is created to read:

16 565.37 (5r) (b) The administrator may not withhold from any payment to an
17 assignee of a lottery prize the amount specified in par. (a) that is owed by a winner
18 of a lottery prize, nor may the administrator withhold from any payment to a winner
19 the amount specified in par. (a) that is owed by an assignee.

20 **SECTION 25. Initial applicability; revenue.**

21 (1) SITUS OF INCOME. The treatment of sections 71.04 (1) (a) and (9), 71.23 (1)
22 and (2), 71.25 (5) (b), 71.26 (1) (a), 71.362 (1) and (2), 71.43 (1) and (2), 71.45 (1), (2)
23 (a) 15. and (3r), 71.46 (3) and 71.67 (4) (a) of the statutes first applies to taxable years
24 beginning on January 1, 1998.

