

Lottery award prizes other than cash prizes

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Date: August 22, 1995

Subject:
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Marcia Mann, Ph.D.
Secretary, Department of the Lottery
Capitol Complex
Tallahassee, Florida 32399-4002

Re: LOTTERY, DEPARTMENT OF THE--LOTTERIES--department may award noncash prizes.
ss. 24.102, 24.105, Fla. Stat.

Dear Dr. Mann:

You ask substantially the following question:

May the Lottery Department award prizes other than cash prizes?

In sum:

In light of the broad grant of authority given to the Department of the Lottery, the department may award noncash prizes.

The Department of the Lottery (department) is created by statute for the purpose of operating the state lottery as authorized by Art. X, s. 15, Fla. Const., "so as to maximize revenues in a manner consonant with the dignity of the state and the welfare of its citizens." [1] In creating the Florida Public Education Lottery Act (act), [2] the Legislature stated that its intent in creating Ch. 24, Fla. Stat. (1993), is:

"That the lottery games be operated by a department of state government that functions as much as possible in the manner of an entrepreneurial business enterprise. The Legislature recognizes that the operation of a lottery is a unique activity for state government and that structures and procedures appropriate to the performance of other governmental functions are not necessarily appropriate to the operation of a state lottery. [3]

While the act appears to generally contemplate that cash prizes will be made, [4] nothing in the act specifically precludes the award of noncash prizes. While the generally accepted definition of the term "payment" involves a transaction of money, in its more general application the term may mean fulfillment of a promise, performance of an agreement, satisfaction of a claim, or discharge of a liability or obligation. [5]

As set forth above, it is the intent of the Legislature that the lottery function as much as possible

in the manner of an entrepreneurial business enterprise. To accomplish this purpose, the department has been granted, among other things, the authority to adopt rules governing the operation of the lottery regarding the number and sizes of prizes and the manner of payment of prizes to holders of winning tickets.[6] In addition, the department may adopt rules on "[s]uch other matters necessary or desirable for the efficient or economical operation of the lottery or for the convenience of the public." [7]

Therefore, it appears that the Department of the Lottery is not prohibited from awarding noncash prizes if it determines that such prizes are desirable for the efficient or economical operation of the lottery.

Sincerely,

Robert A. Butterworth
Attorney General

RAB/tlsjw

[1] Section 24.104(2), Fla. Stat. (1993).

[2] See s. 24.101, Fla. Stat. (1993).

[3] Section 24.102(2)(b), Fla. Stat. (1993).

[4] See, e.g., s. 24.115(1)(e), Fla. Stat. (1993) (retailers may be authorized to pay winners up to \$599 after performing validation procedures on their premises); s. 24.115(2), Fla. Stat. (1993) ([a]ll unclaimed prize money shall be awarded to the pool from which future prizes are to be awarded or used for special prize promotions).

[5] See 70 C.J.S. *Payment* s. 2.

[6] See s. 24.105(10)(c) and (e), Fla. Stat. (1993).

[7] Section 24.105(10)(j), Fla. Stat. (1993).