

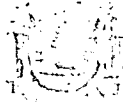
MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

JOSEPH E. BRENNAN
ATTORNEY GENERAL



RICHARD S. COHEN
JOHN M. R. PATERSON
DONALD G. ALEXANDER
DEPUTY ATTORNEYS GENERAL

STATE OF MAINE
DEPARTMENT OF THE ATTORNEY GENERAL
AUGUSTA, MAINE 04333

August 31, 1978

To: George Orestis, Director, Maine State Lottery Commission
From: Sarah Redfield, Assistant Attorney General
Re: Annuity Payments

This is in response to your request for an opinion as to whether Title 8 M.R.S.A. § 357 prohibits an inter vivos transfer to a spouse of a lottery winner of portions of monthly annuity payments received by said winner. It is my understanding that Mr. Frank Bean won \$500,000 in the Maine lottery, that this amount is now being paid to him pursuant to the terms of an annuity contract between the Lottery Commission and Prudential Insurance Company, and that the annuity payments are made in lieu of a lump sum payment to the winner.

The contract between the State of Maine Lottery Commission and Prudential Insurance Company for such annuity provides, in pertinent part, that

"All payments under this contract are not assignable and not subject to the claims of any creditor, except as provided by the terms of subsection 357 and 364 of Title 8 of the Maine Revised Statutes. The contract holder will notify the Prudential in writing if any payments under this contract are subject to either subsection, and any payments by Prudential in reliance on such notice will completely discharge the liability of Prudential for such payments."

Consistent with this provision, it appears that should the Lottery Commission wish to do so, it would be able to notify Prudential of the appropriateness of allowing an inter vivos transfer of

portions of the monthly annuity payments from Mr. Bean to his wife. Once Prudential has been provided with such notice, it does not appear that there would be any reason for them to object to such payment. Of course, this notice would only be appropriate if such transfer were consistent with the law.

Title 8 M.R.S.A. § 357 provides in this regard that:

"No right of any person to a prize drawn shall be assignable, except that payment of any prize drawn may be paid to the estate of a deceased prize winner, and except that any person pursuant to an appropriate judicial order may be paid the prize to which the winner is entitled. The director shall be discharged of any liability upon payment of the prize pursuant to this section."

It appears, then, on its face this section prohibits the assignment of the right of any person to a prize to be drawn. In the present case, Mr. Bean wishes to assign the right to a prize which has already been drawn. If Mr. Bean had received payment in a lump sum, there would be no question as to his ability to give whatever amount of it he chose to his wife. The fact that he is to receive payment by an annuity contract should not necessarily prevent him from doing likewise. It does not appear that Title 8 M.R.S.A. § 357 may be appropriately read to limit the assignment of a prize which has in essence already been paid and vested. Accordingly, I see no legal problem with the Commission's providing Prudential with notice that an inter vivos transfer by Mr. Bean to his spouse of a portion of the annuity payment is acceptable to the Commission, so long as no portion of the annuity payment is to be paid twice by Prudential.

if you have further questions, please let me know.

Sarah Redfield

SARAH REDFIELD
Assistant Attorney General

SR/ec