

Public Hearing Testimony

February 10, 2009

**HB 6321 (RAISED) AN ACT CONCERNING THE DENIAL OF A LICENSE AS A
LOTTERY SALES AGENT**

Testimony submitted by:
The Connecticut Lottery Corporation

HB 6321 AAC THE DENIAL OF A LICENSE AS A LOTTERY SALES AGENT

In addition to expressing its support of the testimony submitted by the Division of Special Revenue in connection with HB 6321, the Connecticut Lottery Corporation submits the following statement in connection with the proposed bill.

The Connecticut Lottery Corporation believes that passage of the above legislation would negatively impact transfers to the State of Connecticut's General Fund.

Current regulations require arrangements be made to pay all outstanding Lottery obligations, namely remittance of proceeds through the sale of lottery tickets, as well as an accounting for and return of unsold instant lottery tickets when a lottery retailer ("licensee") transfers ownership of the retail operation to a new business owner (Conn Agency Reg 12-568a-6). Currently, if an individual applies for a license to sell lottery and monies are owed by the prior owner of the business for Lottery obligations, a license will not be issued by the Division of Special Revenue to the new business owner until such time as the outstanding obligation to the Lottery is paid. Furthermore, this obligation should be disclosed in the normal course of due diligence in the purchase and sale of a business. Notably, the present Regulation does not preclude a business entity from licensure in a given location unless the new entity engaged in a buy/sell transaction with the delinquent Lottery agent. The Regulation is narrowly tailored to ensure that monies owed the State and held in trust by Lottery agents are safeguarded in commercial transactions.

If HB 6321 is enacted, Conn. Agency Reg. 12-568a-6 will be eviscerated. Delinquent Lottery agents will be rewarded with a windfall and will be able to sell their business without satisfying their debt to the State of Connecticut. Nor will the purchaser of the agent's business be obligated to make arrangements for such payment at the closing. As a result, the new owner will be able to secure a license for the sale of lottery tickets despite there being a delinquency for outstanding Lottery proceeds, arguably even providing an incentive for a failing business to sell his/her business and/or satisfy other debts rather than those ultimately due the General Fund.

Lottery agents have a fiduciary obligation to the Connecticut Lottery Corporation to hold lottery tickets, and the proceeds derived through the sale of said tickets, in trust. Passage of this legislation will eliminate the very core reason for the fiduciary obligation, to guarantee a return of such monies to the State of Connecticut's General Fund,

Payment of lottery obligations by a business owner at the time of a closing in the sale of that business is akin to paying and satisfying all other outstanding obligations such as sales taxes, payment on existing inventory, conveyance taxes and mortgages or commercial loans. There is no reason to treat this obligation to the State any differently than these other debts.

While the potential loss in transfers to the General Fund is difficult to predict with certainty, the Connecticut Lottery Corporation believes the amount could be significant. There are approximately 2,750 lottery agents selling tickets in Connecticut. Each year about 200 store owners sell/transfer their retail business to a new owner who must be independently licensed for lottery sales. The average sales float due to the Lottery is \$17,500 per retailer. In addition, the retailer holds on average \$25,000 of consigned instant scratch tickets, bringing the total average exposure to the Lottery of \$42,500 per transfer. With the current regulation under Conn Agency Reg. 12-568a-6, virtually all of these funds are collected, as demonstrated by the fiscal year 2008 bad debts of \$128,000. However, without the current regulation, the exposure ranges between \$100,000 and \$8,500,000 (200 retailer transfers multiplied by the \$42,500 average exposure). Further, the passage of HB 6321 could increase this exposure, as noted above, providing an incentive to delinquent retailers to transfer their business without full payment to the Lottery. This is of particular consequence in an economy where lottery retailers are more prone to delinquency. Any decrease in payments to the Lottery will result in a direct reduction in the transfers to the State's General Fund.

Passage of this legislation will remove a long standing and effective regulation that has ensured monies raised through the sale of lottery tickets finds its true beneficiary, the State of Connecticut General Fund. Eliminating this requirement will more likely than not result in a reduction in general funds.