

TREASURY-GENERAL

OFFICE OF THE STATE TREASURER

Offset of State Lottery Prizes to Satisfy Defaulted Federal and State Student Loans

Proposed Readoption: N.J.A.C. 17:43

Authorized By: R. David Rousseau, State Treasurer.

Authority: N.J.S.A.5:9-13.10 through 13.16

Calendar Reference: See Summary below for explanation of exception to calendar requirement.

Proposal Number: PRN 2008-360.

Submit written comments by January 2, 2009 to:

Kaitlyn Adams
Office of the State Treasurer
State House
PO Box 002
Trenton, NJ 08625-0002

The agency proposal follows:

Summary

In order to provide ample notification, the public comment period will be extended to 60 days, since the proposed readoption of this chapter is not listed in the agency calendar. This notice of proposal is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Pursuant to Executive Order No. 66 (1978) and N.J.S.A. 52:14B-5.1, N.J.A.C. 17:43 expires on April 5, 2009. The Office of the State Treasurer, the Division of State Lottery and the Higher Education Student Assistance Authority (HESAA) have reviewed the rules proposed for readoption and determined them to be necessary, reasonable and

proper for the efficient administration of the procedures therein to offset State lottery prizes to satisfy defaulted Federal and State student loans for which they were originally promulgated, as required by the Executive Order. To ensure the continued efficient administration of this State lottery offset, the Office of the State Treasurer is proposing the readoption of these rules to satisfy defaulted Federal and State student loans.

The rules proposed for readoption provide for a match of lists of winners of lottery prizes in excess of \$1,000 with lists of individuals who are in default of a student loan. The match is to be based on lists maintained by the Division of State Lottery in the Department of the Treasury and HESAA. No lottery prize in excess of \$1,000 will be disbursed until a comparison has been made and a resolution of any debt is satisfied.

If a match is found, HESAA is required to notify the lottery winner that payment of the prize is being withheld and that the individual may request a hearing on the debt. If the individual does not request a hearing, the lottery prize will be applied to the debt prior to the disbursement of the remainder of the lottery prize. If the individual requests a hearing, the resolution of the hearing process will determine whether or not the lottery prize will be applied to the debt. If the defaulted loan is subject to a judgment, the lottery prize will be applied to satisfy the judgment prior to the disbursement of the remainder of the lottery prize. If the debtor appeals the judgment, the resolution of the appeal will determine whether or not the lottery prize will be applied to the debt.

Social Impact

The rules proposed for readoption will enhance the ability of the State to collect defaulted Federal and State student loans. Defaulted student loans negatively impact access to low cost student loans since the Federal government has to increase Federal

spending to cover the costs of defaulted student loans, and since the State student loan program will have less to lend to students if it has to use bond proceeds to cover the costs of defaults. Therefore, providing the State another collection tool can help safeguard the student loan funds that facilitate access to higher education.

Economic Impact

The rules proposed for re adoption will have a positive economic impact on the loan funds which HESAA will have available for students who wish to borrow since repayments of defaulted loans will continue to be made through the State lottery offset. In accordance with P.L. 1997, c. 306, the costs of administrating the Act and these rules will be borne by Lottery, Office of Information Technology (OIT) and HESAA. The administrative cost of the program is estimated to be nominal. The operating costs will continue with no need for additional staff. Lottery winners whose prizes are subject to the offset will have their prizes reduced by the offset amount.

Federal Standards Statement

N.J.A.C. 17:43-1.4 contains a stipulation that for lottery prizes of more than \$5,000, Federal income tax withholding will take precedence over any other setoffs, deductions or set asides under these rules. This precedence for Federal income tax withholding is required by section 1942 of the Energy Policy Act, which amends Internal Revenue Code Sec. 3402(q); Reg. Secs. 31.3402(q)-1, 1.6011-3. There are no other Federal laws or regulations that impact these rules proposed for re adoption. N.J.A.C. 17:43 is based on State statute which establishes authority for this chapter. Therefore, a Federal standards analysis is not required.

Jobs Impact

The rules proposed for re adoption will not result in either the creation of new jobs or the loss of existing jobs.

Agriculture Industry Impact

The rules proposed for re adoption will not have any impact on the agriculture industry.

Regulatory Flexibility Statement

A regulatory flexibility analysis is not required because the rules proposed for re adoption do not impose reporting, recordkeeping, or other compliance requirements on small businesses as defined by the Regulatory Flexibility Act, N.J.S.A. 52:14B-16 et seq. The rules proposed for re adoption govern only the administrative operations of State agencies relative to individuals who have won lottery prizes in excess of \$1,000 and who have defaulted on student loans.

Smart Growth Impact

The rules proposed for re adoption will have no impact on the achievement of smart growth and the implementation of the State Development and Redevelopment Plan.

Housing Affordability Impact

The Division of State Lottery anticipates that the rules proposed for re adoption will have no impact on any aspect of housing, as the rules establish procedures for the offset of State lottery prizes to satisfy defaulted Federal and State student loans.

Smart Growth Development Impact

The rules proposed for readoption would not result in a change in the housing production within Planning Areas 1 or 2, or within designated centers, under the State Development and Redevelopment Plan. The basis for this finding is that the rules proposed for readoption, which establish procedures for the offset of State lottery prizes to satisfy defaulted Federal and State student loans, have nothing to do with housing production, either within Planning Areas 1 or 2, within designated centers, or anywhere in the State of New Jersey.

Full text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 17:43.