

# FINAL DRAFT OF PROPOSED REGULATIONS

## Title 14

### INDEPENDENT AGENCIES

#### Subtitle 01 STATE LOTTERY AGENCY

##### Chapter 01 Introduction

Authority: State Government Article, §§ 9-109, ~~and 9-110~~, 9-1A-02, and 9-1A-04,  
Annotated Code of Maryland

##### ~~.01 History.~~

~~A. The Maryland State Lottery (Lottery) was established by the enactment of Chapter 365 of the Laws of Maryland of 1972, and the voter's approval that same year of a constitutional amendment to allow the State Lottery. The amendment was ratified on November 7, 1972, by a Statewide majority of over four to one and the Lottery commenced operations on January 2, 1973. Former Article 88D added to the Annotated Code of Maryland the Maryland State Lottery Law (after this Lottery Law) and created the State Lottery Agency (Agency), the State Lottery Commission (Commission), and the position of Director of the State Lottery Agency (Director).~~

~~B. The mandate of the Lottery Law, in line with other State lottery laws, was to establish a State operated lottery, under the immediate supervision of a Director and the guidance of a Commission, for the purpose of producing revenue for the General Fund of the State.~~

~~C. The Commission consists of five members, all of whom are appointed by the Governor, with the advice and consent of the Senate. The members are appointed for terms of 4 years. The members annually elect one member as Chairman of the Commission.~~

~~D. The Lottery Law directs the Governor to appoint, with the advice and consent of the Senate of Maryland, a Director of the State Lottery Agency who serves at the pleasure of the Governor.~~

##### ~~.02~~ .01 State Lottery Fund.

A. All monies received from the sale of Lottery tickets, or shares, less the commission of the Lottery agents as authorized by State Government Article, 9-117 and 9-118, Annotated Code of Maryland, and any other revenues received under this article, shall be accounted for to the State Comptroller and placed into a special account known as the State Lottery Fund. A system of voucher deposits may be instituted to allow payout of prizes and commissions and, when necessary, reimbursement for monies paid out for these purposes.

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B. From the State Lottery Fund, the Comptroller shall first pay for the operation and administration of the Lottery as authorized in State Government Article, Title 9, Subtitle 1, Annotated Code of Maryland, including the expenses of the Agency as allowed in the annual State budget, which payment shall be prorated between daily and nondaily Lottery games. The monies remaining in the State Lottery Fund from any Lottery game shall be available for distribution to the holders of winning tickets or shares. That portion of the monies which is not distributed to the holders of winning tickets or shares shall be the State's share and shall be distributed as provided in §C of this regulation.

C. The State's share shall be accumulated during each fiscal year in the State Lottery Fund on a monthly basis and each month's share shall be paid over promptly after the first day of each month for the preceding month into the General Fund of the State. These monies shall be available as General Fund revenues in the fiscal year in which they accumulated in the State Lottery Fund. However, proceeds of lotteries conducted for the benefit of the Maryland Stadium Authority shall be paid into the Maryland Stadium Facilities Fund.

### **~~.03 Purpose.~~**

~~A. These regulations are adopted pursuant to the Lottery Law, in accordance with the Administrative Procedure Act, the provisions of which are hereby incorporated by reference, and by the Attorney General's opinion dated November 15, 1979, concerning the impact of Chapter 269, Laws of Maryland 1979, which interpreted various provisions of the Lottery Law, State Government Article, Title 9, Subtitle 1, Annotated Code of Maryland.~~

~~B. The regulations shall provide for all matters necessary or desirable for the:~~

~~(1) Efficient and economical operation and administration of the Lottery; and~~

~~(2) Convenience of the purchasers of Lottery tickets and the holders of winning Lottery tickets.~~

~~C. Amendments. The Director, with the approval of the Commission, may amend, modify, or otherwise change these regulations upon full compliance with the Lottery Law and the Administrative Procedure Act. The amendments, modifications, or changes shall become immediately effective and applicable to Lottery business and administration and supersede all previously issued regulations.~~

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## ~~04~~ .02 Definitions.

A. In this subtitle, the following terms have the meanings indicated.

B. Terms Defined.

(1) ~~Agency~~

~~(a)~~ "Agency" means the State Lottery Agency ~~created in the Lottery Law.~~

~~(b)~~ "Agency" and includes the State Lottery Commission and the Director.

(2) "Agent" or Sales agent" means a business or person who has been licensed to sell Lottery tickets.

(3) "Bank" includes all banks, banking associations, and trust companies organized under the authority of the State or the United States whose principal place of business is within the State.

(4) "Bonus games" means any game so designated by the Agency.

(5) "Claim center" means any place designated by the Agency where the holder of a winning Lottery ticket or the holder's representative may file a claim for a Lottery prize.

(6) "Claim fees" means service fees paid to a licensed agent for each valid claim paid or processed.

(7) "Commission" means the State Lottery Commission ~~established by the Lottery Law.~~

(8) "Depository" means any person, including a bank, who performs such functions, activities, or services in connection with the operation of the Lottery for the deposit and handling of Lottery funds, and the accounting of them.

(9) "Director" means the Director of the State Lottery Agency.

(10) "Drawing" means the selection of winning numbers.

(11) "Drawing date" means the day or days of the week, as determined by the Director, on which the winning numbers for the Lottery games are selected.

(12) "Game ticket" or "Lottery ticket" or "ticket" means a ticket or share sold by a Lottery agent to the general public.

(13) "Gross sales" means the total dollar value of sales from all tickets issued in any Lottery game for a particular week.

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~~(14)~~ "Licensee" or "agent" means a business or person who has been licensed to sell Lottery tickets.

~~(15)~~14 "Lottery" or "State Lottery" means the Lottery established and operated pursuant to the Lottery Law.

~~(16)~~15 "Lottery Law" means the Maryland State Lottery Law, State Government Article, Title 9, Subtitle 1, Annotated Code of Maryland.

~~(17)~~16 "Lottery property" includes the agent's license, Lottery decals, terminals, monitors and other physical equipment, promotional material, all monies belonging to the State Lottery Fund, claimed and cancelled tickets, and all tickets held by an agent which are unsold and eligible for return to the Agency under these regulations.

~~(18)~~17 "Lotto" means a pari-mutuel game in which players select a specified set of numbers from a larger field of forty numbers, as determined by the Director and published in each game's consumer brochure made available at agent locations.

~~(19)~~18 "Pari-mutuel" means the total number of winning matches per prize level, divided equally into the dollar value of the prize pool for the specific prize level.

~~(20)~~19 "Person" includes any individual, association, corporation, club, trust, estate, society, company, joint stock company, receiver, trustee, assignee, referee, or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals. "Person" also means and includes all departments, commissions, agencies, and instrumentalities of the State, including counties and municipalities and agencies and instrumentalities of them.

~~(21)~~20 "Play slip" means a card issued by the Agency and used by players to select their playable numbers.

~~(22)~~21 "Prize" means the compensation provided for a valid winning Lottery ticket.

~~(23)~~22 "Prize pool" means that portion of money set aside for players holding winning tickets, as determined by the Director and published in each game's consumer brochure made available at agent locations.

~~(24)~~23 "Regulations" means regulations promulgated by the Director ~~and approved by or~~ the Commission ~~for the operation of the Lottery~~.

~~(25)~~24 "Subscription ticket" means a ticket which provides the ability to play a specific number of games using the same numbers for a period of consecutive drawings as specified on the ticket.

~~(26)~~25 "Terminal" means a computerized unit specifically designed for issuing and processing tickets and for printing of special reports.

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(26) Video lottery means gaming or betting conducted using a video lottery terminal.

(27) Video lottery terminal.

(a) Video lottery terminal means any machine or other device that, on insertion of a bill, coin, token, voucher, ticket, coupon, or similar item, or on payment of any consideration:

(i) is available to play or simulate the play of any game of chance in which the results, including the options available to the player, are randomly determined by the machine or other device; and

(ii) by the element of chance, may deliver or entitle the player who operates the machine or device to receive cash, premiums, merchandise, tokens, or anything of value, whether the payout is made automatically from the device or in any other manner.

(b) Video lottery terminal includes a machine or device:

(i) that does not directly dispense money, tokens, or anything of value to winning players; and

(ii) described under paragraph (a) of this definition that uses an electronic credit system making the deposit of bills, coins, or tokens unnecessary.

(c) Video lottery terminal does not include an authorized slot machine operated by an eligible organization under Title 12, Subtitle 3 of the Criminal Law Article.

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#### Subtitle 01 STATE LOTTERY AGENCY

#### Chapter 02 General Regulations ~~Applicable to the Agency~~

Authority: State Government Article, §§ ~~9-107, 9-108, 9-109, and 9-110,~~ 9-1A-02, 9-1A-04, and 9-1A-26, Annotated Code of Maryland

#### **.01 Powers of the Commission.**

A. The Commission shall have the power, after a full and thorough study of any reports and recommendations, and any other pertinent information as may be available, to approve and adopt regulations, in accordance with the Administrative Procedure Act, governing the operation of the State Lottery and Video Lottery Terminals.

~~B. The regulations shall provide for all matters necessary or desirable for the efficient and economical operation and administration of the Lottery and for the convenience of the purchasers of tickets, or shares, and the holders of winning tickets, or shares, and shall include the following requirements and limitations:~~

~~(1) There shall be regular drawings or selection of winning tickets, or shares, on not less than a weekly basis;~~

~~(2) An individual younger than 21 years old may not be licensed as an agent to sell Lottery tickets, or shares;~~

~~(3) An individual younger than 18 years old may not be permitted to buy, sell, cash, or present for payment Lottery tickets, or shares;~~

~~(4) Apportionment of the total revenues accruing from the sale of tickets or shares, and from all other sources as provided in State Government Article, §§9-118 and 9-120, Annotated Code of Maryland.~~

B. With respect to Video Lottery:

(1) the Commission shall:

(a) promptly and in reasonable order, make a determination on license applications and causes affecting the granting, suspension, revocation, or renewal of licenses under this subtitle;

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(b) after a hearing, suspend or revoke as applicable the license of a licensee who has a license suspended or revoked in another state;

(c) conduct hearings concerning civil violations of this subtitle or regulations issued under this subtitle;

(d) collect application, license, and other fees to cover the administrative costs of this subtitle related to licensing;

(e) deposit application, license, and other fees to a bank account that the State Treasurer designates to the credit of the State Lottery Fund to cover the administrative costs of this subtitle related to licensing;

(f) levy and collect civil penalties for civil violations of the provisions of this subtitle or regulations issued under this subtitle;

(g) be present at a video lottery operation through its employees and agents at any time during the operation of any video lottery terminal for the purpose of certifying revenue from the video lottery terminals, receiving complaints from the public, and conducting any other investigation into the operation of the video lottery terminals and the maintenance of the video lottery terminals and associated equipment and software as the Commission may deem necessary and proper; and

(h) review and rule on any complaint by a video lottery licensee regarding any investigative procedures of the Commission that are unnecessarily disruptive of video lottery operations.

(2) the Commission may:

(a) issue subpoenas to compel the attendance of witnesses at any place within the State in the course of any investigation or hearing under this subtitle;

(b) administer oaths and require testimony under oath before the Commission in the course of any investigation or hearing conducted under this subtitle;

(c) serve or cause to be served its process or notices in a manner provided for service of process in civil actions under the Maryland Rules; and

(d) propound written interrogatories.

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(3) the Commission may receive assistance in the performance of its duties under this subtitle from the State Lottery Agency.

C. The Commission shall advise and make recommendations to the Director regarding the operation and administration of the Lottery.

D. The Commission shall:

(1) Report monthly to the Governor and the General Assembly the total Lottery revenues, prize disbursements, and other expenses for the preceding month; ~~and~~

(2) Make an Annual Report, which shall include a full and complete statement of Lottery revenues, prize disbursements, and other expenses, and including such recommendations for changes in the Lottery Law as it deems necessary or desirable;

(3) Account monthly to the Comptroller for all the revenue related to Video Lottery; and

(4) Report annually to the Governor and the General Assembly:

(a) on the operation and finances of the video lottery facilities;

(b) with the assistance of local police departments and the Department of State Police, detailing the crimes that occur within the communities surrounding a video lottery facility; and

(c) on the attainment of minority business participation goals specified for licensees under § 961A610(a)(1) and (2) of State Government Article, Annotated Code of Maryland, and the efforts by licensees to maintain those goals.

E. The Commission shall report immediately to the Governor and the General Assembly any matters which require immediate changes in the laws of this State in order to prevent abuses and evasions of State Government Article, Title 9, Subtitle 1, Annotated Code of Maryland, or the regulations adopted under them or to rectify undesirable conditions in connection with the administration or operation of the Lottery.

F. The Commission shall carry on a continuous study and investigation of the Lottery throughout the State:

(1) For the purpose of ascertaining any defects in State Government Article, Title 9, Subtitle 1, Annotated Code of Maryland, or in this subtitle, by reason of which abuses in the administration and operation of the Lottery or any evasion of State Government Article, Title 9, Subtitle 1, Annotated Code of Maryland, or this subtitle, as they may arise or be practiced;

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(2) For the purpose of formulating recommendations for changes in State Government Article, Title 9, Subtitle 1, Annotated Code of Maryland, and this subtitle, to prevent abuses and evasions;

(3) To guard against the use of State Government Article, Title 9, Subtitle 1, Annotated Code of Maryland, and this subtitle, as a cloak for carrying on of organized gambling and crime; and

(4) To insure that the Lottery Law and this subtitle shall be in such form and be so administered as to serve the true purpose of State Government Article, Title 9, Subtitle 1, Annotated Code of Maryland.

G. The Commission shall make a continuous study and investigation of:

(1) The operation and the administration of similar laws which may be in effect in other states or countries;

(2) Any literature on the subject which from time to time may be published or available;

(3) Any federal laws which may affect the operation of the Lottery;

(4) The reaction of Maryland citizens to existing and potential features of the Lottery with a view toward recommending or effecting changes that will tend to serve the purpose of State Government Article, Title 9, Subtitle 1, Annotated Code of Maryland.

H. The Commission shall meet not less than once each calendar month and shall set its own rules for frequency, notice, and conduct of meetings, except that no action shall be considered an act of the Commission unless three or more of its members concur in it. The Commission may annually elect a vice chairman from among its members.

I. The Commission has the power to hear and decide an appeal of any denial by the Director of the licensing of an agent.

J. The Commission may suspend or revoke the license of an agent pursuant to the recommendation of the Director and as deemed necessary and in accordance with the Lottery Law, Administrative Procedure Act, and this subtitle.

K. The Commission may conduct hearings on appeals concerning the suspension or revocation of the permanent license pursuant to the recommendation of the Director, in accordance with the Lottery Law, Administrative Procedure Act, and this subtitle.

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## **.02 Powers of the Director.**

A. The Director shall perform the duties specified in this regulation.

B. The Director shall supervise and administer the operation of the Lottery in accordance with the provisions of State Government Article, Title 9, Subtitle 1, Annotated Code of Maryland, and with this subtitle, as approved by the Commission.

C. The Director shall provide assistance to the Commission in the performance of its duties under the provisions of State Government Article, Title 9, Subtitle 1A, Annotated Code of Maryland.

~~C~~D. The Director shall license business establishments as agents to sell Lottery tickets to best serve the public convenience and promote the sale of tickets in accordance with the provisions of State Government Article, Title 9, Subtitle 1, Annotated Code of Maryland, and this subtitle, as approved by the Commission. The Director may require any person granted a license to post adequate security in any form deemed acceptable by the Director, including but not limited to an appropriate surety bond, irrevocable letter of credit, or cash security deposits in an amount determined by the Director.

~~D~~E. The Director shall confer regularly as necessary or desirable and not less than once every month with the Commission on the operation and administration of the Lottery, make available for inspection by the Commission upon request all books, records, files, and other information and documents of the Agency, and advise the Commission and recommend such matters as necessary and advisable to improve the operation and administration of the Lottery.

~~E~~F. The Director shall recommend to the Commission that ~~it~~ it suspend or revoke any license issued pursuant to State Government Article, Title 9, Subtitle 1, Annotated Code of Maryland, or this subtitle. The Director may temporarily suspend an agent for violations of this subtitle.

~~F~~G The Director shall enter into contracts subject to the approval of the Commission and to Division II of the State Finance and Procurement Article, Annotated Code of Maryland, and for the:

(1) Operation of all or any part of the Lottery; and

(2) Use of space, for advertising or promotional purposes, on tickets or publications distributed by the Agency, if, in the Director's discretion, the action is fiscally prudent and in the best interest of the Lottery.

~~G~~H. The Director shall submit monthly to the Comptroller and to the Commission a certified statement of the total Lottery revenues and the total prize disbursements and other expenses for the preceding month.

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I. The Director, as Secretary of the Commission, shall promptly send the Governor a certified copy of the minutes of each meeting of the Commission, including each regulation that is adopted.

~~H.~~J. With the approval of the Commission, the Director shall contract for the promotion of the Lottery and enter into private sector cooperative marketing project agreements as provided for in State Finance and Procurement Article, §11-203(a)(1)(xvi), Annotated Code of Maryland.

~~I.~~K. In accordance with the regulations of the Agency and State Government Article, Title 9, Subtitle 1, Annotated Code of Maryland, the Director may arrange for a person to perform any activity, function, or service in connection with the operation of the Lottery. The delegated activity, function, or service shall constitute a lawful activity, function, or service of the person.

~~J.~~L. The Director shall authorize the Agency to sell Lottery tickets for a temporary period at any promotional or special event being held in the State if:

(1) In the Director's determination, a licensed agent is not available to conduct the sale;  
and

(2) The person holding the promotional or special event has authorized the Agency to sell Lottery tickets at the event.

~~K.~~M. The Director may amend, repeal, or supplement these regulations from time to time as the Director considers necessary or desirable, subject to the approval of the Commission, and in accordance with the Administrative Procedure Act.

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#### Subtitle 01 STATE LOTTERY AGENCY

##### Chapter 10 Video Lottery Terminals

Authority: State Government Article, Subtitle 9-1A, Annotated Code of Maryland

###### .01 General.

This chapter applies to the State's Video Lottery Terminal program.

###### .02 Definitions.

A. In addition to the terms defined in § 9-1A-01 of State Government Article, Annotated Code of Maryland, which have the same meaning in this chapter, in this chapter the following terms have the meanings indicated.

###### B. Terms Defined.

(1) "Facility" means a Video Lottery Facility.

(2) "Location Commission" means the Video Lottery Facility Location Commission established by § 9-1A-36 of State Government Article, Annotated Code of Maryland.

(3) "Operation License" means a license awarded by the Location Commission to operate a Video Lottery Facility.

(4) "Submit" means to deliver a document:

(a) In a manner that ensures its receipt by the party to whom it is addressed; and

(b) Which is considered complete only upon actual receipt by that party.

###### .03 Process.

###### A. General Provisions.

(1) Upon filing of an application for a license under this chapter other than an operation license, the applicant shall pay a nonrefundable application fee established by the Commission.

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(2) If a license must be submitted to the Commission by a particular date, the application documents shall be delivered to the Commission not later than 5 p.m. on the last day of this period and an application submitted after the deadline may not be accepted nor considered by the Commission.

### **B. Applications.**

(1) Documents submitted to the Commission or the Location Commission under this chapter shall consist of an original and such number of copies and in such electronic format as required by the relevant Commission.

(2) Documents and information submitted to the Commission or the Location Commission in a license application shall be sworn before a notary public as to the truth and validity by the applicant or, if the applicant is not an individual, by the chief executive officer of the applicant.

### **C. Director Review.**

(1) Upon receipt of an application by the Commission, the Director shall review the application to determine whether it contains all the information required under this chapter.

(2) If the Director determines that the required information has not been submitted, the Director shall notify the applicant in writing and state the nature of the deficiency.

(3) An applicant notified in accordance with §C(2) of this regulation may submit the documents necessary to complete the application not later than 15 days after issuance of the notification.

(4) An applicant who is notified in accordance with §C(2) of this regulation and who fails to submit the requested documents in a timely manner may not be certified by the Director, and the Commission may not consider the application.

(5) When the Director determines that an application contains all of the required information, the Director shall:

(a) Certify in writing that the application is received by the Commission; and

(b) Deliver a copy of the certification to the applicant.

### **D. Changes in Application.**

(1) If information submitted by an applicant as part of a license application changes or becomes inaccurate before the Commission acts on the application, the applicant shall immediately notify the Director in writing of the change or inaccuracy.

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(2) After an application has been filed by an applicant, the applicant may not amend the application except:

(a) To address a deficiency in accordance with a notice sent under §C(2) of this regulation;

(b) As required by the Commission or the Commission staff for clarification of information contained in the application; or

(c) To address a change in the circumstances surrounding the application that was outside the control of the applicant and that affects the ability of the applicant to comply with the law or the regulations of the Commission.

(3) To amend an application under §D(2)(c) of this regulation, an applicant shall file with the Director a written request to amend the application, stating:

(a) The change in the circumstances surrounding the application that necessitates the amendment;

(b) The nature of the amendment; and

(c) The reason why the amendment is necessary to bring the application into compliance with the law or the regulations of the Commission.

(4) The Commission shall grant or deny each request filed under §D(3) of this regulation.

(5) A request shall be granted if the applicant demonstrates to the satisfaction of the Commission that:

(a) The circumstances requiring the amendment were outside the control of the applicant;

(b) Before the change in the circumstances surrounding the application, the application complied with the pertinent provisions of the law or the regulations of the Commission; and

(c) The amendment is necessary to bring the application into compliance with the pertinent provisions of the law or the regulations of the Commission.

### E. Burden of Proof.

The burden of proof shall be on the applicant to show by clear and convincing evidence that the applicant complies with the regulations of the Commission regarding eligibility and qualifications for the license.

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## **F. Administrative Costs of Background Investigations.**

(1) Promptly upon receipt of an invoice from the Commission, an applicant for a license shall reimburse the Commission for:

(a) The administrative costs associated with performing background investigations of the applicant and any individual required to provide information under Regulation .04 of this chapter, and

(b) Any payments made by the Commission to a person approved by the Commission to conduct the background investigations.

(2) Failure to reimburse the Commission shall be grounds for disqualification of the applicant.

## **G. Continuing Obligations.**

(1) Applicants who are awarded a license must, during the term of their licensures, conform to all of the information contained in their license applications.

(2) Failure to conform to the information contained in a license application shall be grounds for the Commission invoking against the licensee the sanctions described in Regulation .01 of Chapter 02 of this subtitle.

(3) For a holder of an operation license, the information referred to in §G(2) of this regulation includes the license holder's final written proposal submitted to and approved by the Location Commission.

## **.04 Personal and Background Information.**

A. Except as otherwise provided by this regulation, the application documents shall include the information under §B of this regulation, for an individual who is:

(1) The applicant;

(2) A director, officer, or key management individual with the applicant;

(3) A partner of the applicant; or

(4) An owner of an interest of 2 percent or more in the applicant.

B. An individual listed under §A of this regulation shall furnish the following:

(1) Full name and any previous names or aliases;

(2) Date of birth;

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(3) Physical description;

(4) Home and business addresses and telephone numbers;

(5) Driver's license number and state of issuance;

(6) Social Security number; and

(7) Passport or I.D. photo.

C. If the applicant is a corporation, the application documents shall state the:

(1) State in which the applicant is incorporated; and

(2) Name and address of the applicant's agent for service of process in Maryland.

D. If an applicant is a nonprofit corporation, only an individual who is a director or officer of the applicant shall provide the information required under §B of this regulation.

E. The Commission may require an applicant to furnish the information listed in §B of this regulation with regard to the applicant's family and associates.

F. Inadvertent, nonsubstantive errors that might be made in furnishing the information required by this regulation may not be used as a reason by the Commission for disqualifying the applicant.

## **.05 Information for Background Investigation.**

A. An individual required to provide information under Regulation .04 of this chapter shall also submit three complete legible sets of the individual's fingerprints and complete a background form supplied by the Commission which includes a statement disclosing whether the individual has ever been:

(1) Arrested;

(2) Convicted of, pled nolo contendere to, or received probation before judgment for, a felony or misdemeanor, other than a misdemeanor traffic offense;

(3) Sanctioned by a government agency related to gaming;

(4) Found liable in connection with a civil action related to gaming;

(5) A debtor in a bankruptcy proceeding; or

(6) Denied a bond.

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B. The forms submitted in compliance with this regulation shall be accompanied by the:

(1) Fee authorized under § 106221(b)(7) of the Criminal Procedure Article for access to Maryland criminal history records;

(2) Mandatory processing fee required by the Federal Bureau of Investigation for a national criminal history records check; and

(3) Mandatory processing fee required by Interpol for an international criminal history records check.

### **.06 Consent for Investigation.**

A. An individual who is required to provide personal and background information under Regulation .04 of this chapter shall provide a statement that irrevocably gives consent to the Commission, the Location Commission, the Maryland State Police, and persons authorized by the Commissions to:

(1) Verify all information provided in the application documents; and

(2) Conduct a background investigation of the individual.

B. An applicant shall authorize the Commission and, if appropriate, the Location Commission to have access to any and all information the applicant has provided to any other jurisdiction while seeking a similar license in that other jurisdiction, as well as the information obtained by that other jurisdiction during the course of any investigation it may have conducted regarding the applicant.

### **.07 Organizational Documents.**

A. If the applicant is a corporation, the application documents shall include a:

(1) Statement of when the corporation was organized;

(2) Copy of the articles of incorporation and bylaws of the corporation;

(3) Statement and documentation of whether the corporation has been reorganized or reincorporated during the five-year period preceding the date on which the application documents are submitted to the Commission; and

(4) Statement and documentation of whether the corporation has filed restated articles of incorporation.

B. If the applicant is an unincorporated business association, the application documents shall include a:

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(1) Copy of each organizational document of the applicant, including any partnership agreement; and

(2) Description of any oral agreements involving the organization of the applicant.

### .08 Owners.

A. If the applicant is an unincorporated business association, the application documents shall identify:

(1) Each person who exercises voting rights in the applicant; and

(2) Each person who directly or indirectly owns 2 percent or more of the business association.

B. If the applicant is authorized to issue capital stock, the applicant shall state, for each class of stock authorized, the:

(1) Total number of shares;

(2) Par value, if any;

(3) Voting rights;

(4) Current rate of dividend; and

(5) Number of shares outstanding and the market value of each share.

C. If the applicant is a corporation, the application documents shall identify each person who:

(1) Exercises voting rights in the corporation; and

(2) Directly or indirectly owns 2 percent or more of the corporation.

D. The application documents shall include a certified copy of each voting trust or voting agreement in which capital stock of the applicant is held and shall state the:

(1) Name and address of each stockholder participating in the trust or agreement;

(2) Class of stock involved; and

(3) Total number of shares held by the trust or agreement.

E. The application documents shall describe the terms of any proxy by which any capital stock may be voted and shall state the:

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(1) Name and address of the person holding the proxy;

(2) Name and address of the stockholder who granted the proxy;

(3) Class of stock for which the proxy may vote; and

(4) Total number of shares voted by the proxy.

F. The application documents shall state any provisions, and the procedures by which these provisions may be modified, for the redemption, repurchase, retirement, conversion, or exchange of an ownership interest.

G. The application documents shall state whether the applicant's stock may be traded through options and whether the corporation or a stockholder has executed an agreement or contract to convey any of the corporation's or the stockholder's stock at a future date.

H. The application documents shall include a copy or a description of each agreement or contract disclosed under §G of this regulation.

I. The application documents shall include a copy of each prospectus, pro forma, or other promotional material given to potential investors about the video lottery facility.

J. The application documents shall provide full disclosure for any stock options that may exist or have been granted.

## **.09 Directors, Officers, and Partners.**

A. If the applicant is not an individual, the application documents shall include a list of the individuals who are serving, or who are designated to serve, during the first year after the date the application documents are submitted to the Commission or the Location Commission, either as a director, officer, partner, or an individual having key management responsibility.

B. For each individual listed under §A of this regulation, the applicant shall provide:

(1) The individual's name and address;

(2) Each position or office of the applicant held by the individual;

(3) The individual's principal occupation during the five-year period preceding the date on which the application documents are submitted to the Commission; and

(4) The nature and extent of any ownership interest that the individual has in the applicant.

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## **.10 Controlling Entity.**

The application documents shall:

A. State whether another entity has a beneficial ownership in the applicant, as defined in Business Regulation Article, §11-301, Annotated Code of Maryland;

B. Describe the:

\_\_\_\_ (1) Nature of the beneficial ownership, and

\_\_\_\_ (2) Extent of control exercised by the beneficial owner; and

C. Include information and documents required under Regulations 04 - .09 of this chapter as to each beneficial owner.

## **.11 Outside Interests.**

A. The application documents shall state whether the applicant, a director, officer, or partner of the applicant, or an owner of 2 percent or more of an interest in the applicant:

\_\_\_\_ (1) Has ever held an ownership interest in a licensee of the Commission; or

\_\_\_\_ (2) Is currently engaged in the business of gaming in another state and the nature and extent of that involvement.

B. The applicant shall describe the nature of participation stated under §A of this regulation.

# FINAL DRAFT OF PROPOSED REGULATIONS

## Title 14

### INDEPENDENT AGENCIES

#### Subtitle 01 STATE LOTTERY AGENCY

##### Chapter 11 Video Lottery Facility Operation Licenses

Authority: State Government Article, Subtitle 9-1A, Annotated Code of Maryland

###### .01 General.

This chapter articulates the standards which the Commission will use to qualify an applicant for a Video Lottery Facility Operation License. After being awarded an operation license by the Facility Location Commission, a facility operation license holder shall maintain compliance with these regulations.

###### .02 Definitions.

A. In addition to the terms defined in chapter 10 of this subtitle, which have the same meaning in this chapter, in this chapter the following term has the meaning indicated.

###### B. Term Defined.

“Application” means a written request for an operation license and includes a proposal submitted to the Location Commission in response to a solicitation from that Commission.

###### .03 Applications.

A. Applicants for an operation license shall submit applications in the form and format established by the Location Commission.

B. The Commission shall receive applications for an operation license from the Location Commission.

C. The Commission shall review the applications to determine whether the applicants are qualified to hold an operation license.

D. Upon making a determination as to an applicant’s qualifications to hold an operation license, the Commission shall notify the Location Commission.

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## .04 Qualification by the Commission.

A. In determining the qualifications of an applicant for an operation license, the Commission shall consider the information submitted by the applicant in response to the Location Commission's solicitation.

B. An applicant for an operation license shall present in its application sufficient information, documentation, and assurances to establish the following qualification criteria by clear and convincing evidence:

(1) The applicant's financial stability, integrity, and responsibility;

(2) The integrity of any financial backers, investors, mortgagees, bondholders, and holders of other evidences of indebtedness that bear a relation to the application;

(3) The applicant's good character, honesty, and integrity;

(4) Sufficient business ability and experience of the applicant; and

(5) The viability and appropriateness of the applicant's labor practices.

C. The Commission shall disqualify an applicant for an operation license on the basis of any of the following criteria:

(1) Failure of the applicant to prove by clear and convincing evidence that the applicant and each person who owns or controls the application are qualified;

(2) Failure of the applicant or any person required to be qualified as a condition of a license to provide information, documentation, and assurances required by or requested by the Commission or the Location Commission;

(3) Failure of the applicant or any person required to be qualified under as a condition of a license to reveal any fact material to qualification;

(4) Supplying, by the applicant or any person required to be qualified as a condition of a license, information that is untrue or misleading as to a material fact concerning the qualification criteria;

(5) Conviction of the applicant or of any person required to be qualified as a condition of a license of an offense under the laws of the United States or any jurisdiction within the United States that is a criminal offense involving moral turpitude or a gambling offense;

(6) Current prosecution of the applicant or a person who is required to be qualified as a condition of a license for an offense described under §C(5) of this regulation, provided

## **FINAL DRAFT OF PROPOSED REGULATIONS**

that, at the request of the applicant, the Commission may defer its decision on the application during the pendency of the charge;

(7) Pursuit by the applicant or a person who is required to be qualified as a condition of a license of economic gain in an occupational manner or context that is in violation of the laws of the State, if the pursuit creates a reasonable belief that participation of the applicant in video lottery operations would be inimical to the policies of State law and this chapter;

(8) Identification of the applicant or a person who is required to be qualified as a condition of a license as a career offender or a member of a career offender cartel or an associate of a career offender or career offender cartel in a manner that creates a reasonable belief that the association is of a nature as to be inimical to the policies of State law and this chapter;

(9) The committing of an act by the applicant or a person who is required to be qualified as a condition of a license that would constitute an offense described under §C(5) of this regulation, even if the act has not been or may not be prosecuted under the criminal laws of the State;

(10) Willful defiance by the applicant or a person who is required to be qualified as a condition of a license of a legislative investigatory body or other official investigatory body of the United States or a jurisdiction within the United States when the body is engaged in the investigation of crimes relating to gambling, official corruption, or organized crime activity; or

(11) Any other reason established in regulations of the Commission as a reason for denying a license.

D. If the Commission identifies potential problems in the information submitted by the applicant with regard to a subject area that is not relevant to §§ B or C of this regulation, the Commission shall notify the Location Commission of these potential problems.

E. The Commission shall notify the Location Commission upon making a determination that an applicant is or is not qualified to hold an operation license.

### **.10 Issuance of License.**

The Commission shall issue an operation license to the applicant selected for award by the Location Commission.

### **.11 Continuing Obligations.**

A. Upon issuance of an operation license, a license holder shall exercise all diligence in fulfilling the requirements set out in the Location Commission's Request for Proposals

## **FINAL DRAFT OF PROPOSED REGULATIONS**

and the specific details in its license application, including all of the details in the final proposal the license holder submitted to the Location Commission for its approval.

B. Failure to comply with the specific details referred to in §A of this regulation shall be grounds for the Commission invoking against the licensee the sanctions described in Regulation .01 of Chapter 02 of this subtitle.