

Chapter 240

(Senate Bill 512)

AN ACT concerning

Gaming – Video Lottery Terminals

FOR the purpose of prohibiting the Video Lottery Facility Location Commission from awarding a video lottery operation license for a location in Allegany County unless an applicant agrees to purchase the Rocky Gap Lodge and Resort; limiting the number of video lottery terminals for operation at a video lottery facility in Allegany County; ~~authorizing an individual or business entity that has been awarded or issued a video lottery operation license to own an interest in a video lottery facility in Allegany County, subject to certain approvals;~~ restricting access to a video lottery facility in Allegany County from the Rocky Gap Lodge and Resort if video lottery terminals are permanently located in the Rocky Gap Lodge and Resort; requiring the holder of a video lottery operation license in Allegany County to provide for meeting space in the Rocky Gap Lodge and Resort under certain circumstances; altering the hours of operation of video lottery facilities on certain days; altering the distributions of video lottery terminal proceeds from a video lottery facility in Allegany County; repealing certain provisions relating to a distribution of video lottery terminal proceeds to a video lottery operation licensee in Allegany County; *authorizing certain fund managers to use certain grant money from the Small, Minority, and Women-Owned Businesses Account to pay for certain expenses; requiring the Board of Public Works to set the maximum amount of grant money that each fund manager may use for a certain purpose;* waiving the initial license fee for an application submitted for a video lottery operation license in Allegany County for up to a certain number of video lottery terminals; providing that the calculation of the direct investment requirement for an application submitted for a video lottery operation and use of proceeds license in Allegany County shall include the purchase price of the Rocky Gap Lodge and Resort, subject to a determination by the Video Lottery Facility Location Commission; exempting certain video lottery terminals and certain associated equipment and software from the property tax; defining certain terms; repealing certain obsolete provisions; providing for the application of this Act; making this Act an emergency measure; and generally relating to the operation of video lottery terminals in the State.

BY repealing and reenacting, with amendments,

Article – State Government

~~Section 9-1A-05(a) and (d), 9-1A-11(d), 9-1A-27(a) and (b), and 9-1A-36(h)(1)~~
Section 9-1A-05(a), 9-1A-11(d), 9-1A-23(a), 9-1A-27(a) and (b), 9-1A-35, and 9-1A-36(h)(1), (i)(1) and (j)

Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, without amendments,
Article – State Government
Section ~~9-1A-11(b) and (c)~~ 9-1A-05(d), 9-1A-11(b) and (c), and 9-1A-36(i)(2)
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,
Article – Tax – Property
Section 6-102(e)
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

BY adding to
Article – Tax – Property
Section ~~7-211(i)~~ 7-244
Annotated Code of Maryland
(2007 Replacement Volume and 2010 Supplement)

Preamble

WHEREAS, The Rocky Gap Lodge and Resort in the Rocky Gap State Park was originally constructed as a family–friendly tourist destination and as an economic development and employment opportunity for the residents of Allegany County and neighboring counties; and

WHEREAS, The State of Maryland and Allegany County have invested significant resources in developing and maintaining the Rocky Gap Lodge and Resort as a destination location for both Maryland residents and out–of–state visitors; and

WHEREAS, Recognizing the unique challenges facing the continued viability of the Rocky Gap Lodge and Resort, the General Assembly selected a location within the Rocky Gap State Park in Allegany County as one of the five locations for video lottery terminals in the State, which was subsequently approved by the voters of the State; and

WHEREAS, While the addition of video lottery terminals at the Rocky Gap Lodge and Resort will provide much needed revenues to the State and Allegany County, it is still desired that Rocky Gap remain a family–friendly resort and area; and

WHEREAS, It is in the best interests of the State of Maryland and Allegany County to have a successful video lottery facility, hotel, and resort at Rocky Gap; now, therefore,

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – State Government

9–1A–05.

(a) The Video Lottery Facility Location Commission established under § 9–1A–36 of this subtitle may not:

- (1) award more than five video lottery operation licenses;
- (2) award more than 15,000 video lottery terminals for operation at video lottery facilities in the State; [and]
- (3) subject to the requirements of § 9–1A–36(h) and (i) of this subtitle, award more than 4,750 terminals for operation at any video lottery facility; **AND**
- (4) **FOR A LOCATION IN ALLEGANY ~~COUNTY~~, COUNTY:**

(I) AWARD A VIDEO LOTTERY OPERATION LICENSE TO AN APPLICANT THAT DOES NOT AGREE TO PURCHASE THE ROCKY GAP LODGE AND ~~RESORT~~ RESORT; AND

(II) NOTWITHSTANDING § 9–1A–36(1)(2) OF THIS SUBTITLE, AWARD MORE THAN 1,000 VIDEO LOTTERY TERMINALS FOR OPERATION AT A VIDEO LOTTERY FACILITY IN ALLEGANY COUNTY.

(d) (1) In this subsection, “owner” includes any type of owner or beneficiary of a business entity, including an officer, director, principal employee, partner, investor, stockholder, or beneficial owner of the business entity and, notwithstanding any other provisions of this subtitle, including a person having any ownership interest regardless of the percentage of ownership interest.

(2) ~~[An] EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS SUBSECTION, AN~~ individual or business entity may not own an interest in more than one video lottery facility.

(3) A member of the Senate of Maryland or the House of Delegates may not be an owner or an employee of any business entity that holds a video lottery operation license.

(4) Notwithstanding paragraphs (1) and (2) of this subsection, an individual or business entity ~~THAT HAS BEEN AWARDED OR ISSUED A VIDEO~~

~~LOTTERY OPERATION LICENSE UNDER THIS SUBTITLE~~ may ~~OWN AN INTEREST IN~~ ~~OR~~ enter into a management agreement to operate a facility located in Allegany County ~~[that it does not own]~~, subject to the approval of the Video Lottery Facility Location Commission and the State Lottery Commission.

9-1A-11.

(b) (1) Except as provided in paragraph (2) of this subsection, a licensee shall commence operation of video lottery terminals in a permanent facility at the location for which the video lottery operation license has been awarded within 18 months after the license is awarded.

(2) (i) On a determination by the Commission that extenuating circumstances exist that are beyond the control of an awardee and have prevented the awardee from complying with the requirements of paragraph (1) of this subsection, the Commission may allow the awardee an extension of 6 months to comply with the requirements.

(ii) The Commission may not grant more than two extensions to an awardee under this paragraph.

(3) If a video lottery operation awardee fails to comply with the requirements of this subsection, the license awarded to the awardee shall be revoked and shall automatically revert to the State.

(c) (1) Nothing in this subtitle may be construed to prohibit a video lottery operation licensee that is issued a license from beginning video lottery terminal operations in a temporary facility that meets the minimum requirements established in regulations adopted by the State Lottery Commission.

(2) Notwithstanding the provisions of paragraph (1) of this subsection, a video lottery operation licensee shall be operational in a permanent facility no later than 30 months after the award of the video lottery operation license.

(d) **(1)** For a location in Allegany County, [video lottery terminals may be temporarily] **IF VIDEO LOTTERY TERMINALS ARE PERMANENTLY** located in the Rocky Gap Lodge and Resort [until a permanent facility is constructed, subject to the requirements of subsection (b) of this section], **THE LICENSEE SHALL RESTRICT PUBLIC ACCESS TO THE VIDEO LOTTERY FACILITY FROM THE ROCKY GAP LODGE AND RESORT.**

(2) (I) SUBJECT TO SUBPARAGRAPH (II) OF THIS PARAGRAPH, FOR A LOCATION IN ALLEGANY COUNTY, IF VIDEO LOTTERY TERMINALS ARE PERMANENTLY LOCATED IN THE ROCKY GAP LODGE AND RESORT AND EXISTING MEETING SPACE IS ELIMINATED AS A RESULT OF THE VIDEO LOTTERY

TERMINALS, THE LICENSEE SHALL PROVIDE FOR MEETING SPACE THAT IS ACCESSIBLE FROM THE ROCKY GAP LODGE AND RESORT WITHIN 36 MONTHS AFTER ISSUANCE OF THE VIDEO LOTTERY OPERATION LICENSE, SUBJECT TO THE APPROVAL OF THE VIDEO LOTTERY FACILITY LOCATION COMMISSION AND THE STATE LOTTERY COMMISSION.

(II) THE LICENSEE SHALL RESTRICT PUBLIC ACCESS TO THE VIDEO LOTTERY FACILITY FROM ANY MEETING SPACE PROVIDED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH.

9-1A-23.

(a) (1) [A] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A video lottery facility may operate daily from 8 a.m. to 2 a.m.

(2) A VIDEO LOTTERY FACILITY MAY EXTEND OPERATIONS UNTIL 4 A.M. ON SATURDAY AND 4 A.M. ON SUNDAY.

9-1A-27.

(a) ~~On~~ EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, ON a properly approved transmittal prepared by the Commission, the Comptroller shall pay the following amounts from the proceeds of video lottery terminals at each video lottery facility:

(1) 2% to the State Lottery Agency for costs as defined in § 9-1A-01 of this subtitle;

(2) ~~except as provided in subsection (b) of this section,~~ to the video lottery operation licensee, the percentage stated in the accepted application for the location, not to exceed 33%;

(3) 5.5% in local impact grants, in accordance with § 9-1A-31 of this subtitle;

(4) 7% to the Purse Dedication Account established under § 9-1A-28 of this subtitle, not to exceed a total of \$100,000,000 to the Account annually;

(5) ~~(i) Except as provided in item (ii) of this item,~~ for the first 8 years of operations at a video lottery facility, 2.5% to the Racetrack Facility Renewal Account established under § 9-1A-29 of this subtitle, not to exceed a total of \$40,000,000 to the Account annually;

~~(ii) for the first 5 years of operations at a video lottery facility in Allegany County, 2.5% to the video lottery operation licensee [that satisfies the requirement under subsection (b) of this section] IN ALLEGANY COUNTY;~~

(6) 1.5% to the Small, Minority, and Women-Owned Businesses Account established under § 9-1A-35 of this subtitle; and

(7) the remainder to the Education Trust Fund established under § 9-1A-30 of this subtitle.

(b) **(1)** For the first ~~5~~ **10** years of operations at a video lottery facility in Allegany County, ~~the Comptroller shall pay to the video lottery operation licensee IN ALLEGANY COUNTY, on a properly approved transmittal prepared by the Commission, the percentages authorized in subsection (a)(2) and (5)(ii) of this section as stated in the accepted application for the location[, if the applicant that is awarded the video lottery operation license agrees to purchase the Rocky Gap Lodge and Resort]~~ **ON A PROPERLY APPROVED TRANSMITTAL PREPARED BY THE COMMISSION, THE COMPTROLLER SHALL PAY THE FOLLOWING AMOUNTS FROM THE PROCEEDS OF VIDEO LOTTERY TERMINALS AT A VIDEO LOTTERY FACILITY IN ALLEGANY COUNTY:**

(I) 2% TO THE STATE LOTTERY AGENCY FOR COSTS AS DEFINED IN § 9-1A-01 OF THIS SUBTITLE;

(II) TO THE VIDEO LOTTERY OPERATION LICENSEE, THE PERCENTAGE STATED IN THE ACCEPTED APPLICATION FOR THE LOCATION, NOT TO EXCEED 50%;

(III) 2.75% IN LOCAL IMPACT GRANTS, IN ACCORDANCE WITH § 9-1A-31 OF THIS SUBTITLE;

(IV) 2.5% TO THE PURSE DEDICATION ACCOUNT ESTABLISHED UNDER § 9-1A-28 OF THIS SUBTITLE;

(V) 0.75% TO THE SMALL, MINORITY, AND WOMEN-OWNED BUSINESSES ACCOUNT ESTABLISHED UNDER § 9-1A-35 OF THIS SUBTITLE; AND

(VI) THE REMAINDER TO THE EDUCATION TRUST FUND ESTABLISHED UNDER § 9-1A-30 OF THIS SUBTITLE.

(2) AFTER THE FIRST 10 YEARS OF OPERATIONS AT A VIDEO LOTTERY FACILITY IN ALLEGANY COUNTY, THE PROCEEDS GENERATED AT THE FACILITY IN ALLEGANY COUNTY SHALL BE ALLOCATED AS PROVIDED IN SUBSECTION (A) OF THIS SECTION.

9-1A-35.

(a) There is a Small, Minority, and Women-Owned Businesses Account under the authority of the Board of Public Works.

(b) (1) The Account shall receive money as required under § 9-1A-27 of this subtitle.

(2) Money in the Account shall be invested and reinvested by the Treasurer and interest and earnings shall accrue to the Account.

(3) The Comptroller shall:

(i) account for the Account; and

(ii) on a properly approved transmittal prepared by the Board of Public Works, issue a warrant to pay out money from the Account in the manner provided under this section.

(4) The Account is a special, nonlapsing fund that is not subject to § 7-302 of the State Finance and Procurement Article.

(5) Expenditures from the Account shall only be made on a properly approved transmittal prepared by the Board of Public Works as provided under subsection (c) of this section.

(c) (1) In this subsection, "eligible fund manager" means an entity that has significant financial or investment experience, under criteria developed by the Board of Public Works.

(2) Subject to the provisions of paragraph (3) of this subsection, the Board of Public Works shall make grants to eligible fund managers to provide investment capital and loans to small, minority, and women-owned businesses in the State.

(3) The Board of Public Works shall ensure that eligible fund managers allocate at least 50% of the funds from this Account to small, minority, and women-owned businesses in the jurisdictions and communities surrounding a video lottery facility.

(d) Fund managers receiving grants under this section shall:

(1) keep proper records of funds and accounts;

(2) provide an annual report to the Governor and, in accordance with § 2-1246 of this article, the General Assembly on investment capital and loans made pursuant to subsection (c) of this section; and

(3) be subject to audit by the Office of Legislative Audits of the Department of Legislative Services.

(E) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, AN ELIGIBLE FUND MANAGER MAY USE MONEY FROM GRANTS RECEIVED UNDER THIS SECTION TO PAY EXPENSES FOR ADMINISTRATIVE, ACTUARIAL, LEGAL, AND TECHNICAL SERVICES.

(2) THE BOARD OF PUBLIC WORKS SHALL SET THE MAXIMUM AMOUNT OF GRANT MONEY THAT EACH ELIGIBLE FUND MANAGER MAY USE UNDER PARAGRAPH (1) OF THIS SUBSECTION.

[(e)](F) Each fiscal year the Legislative Auditor shall audit and evaluate the utilization of the funds that are allocated to small, minority, and women-owned businesses by eligible fund managers under subsection (c)(3) of this section.

9-1A-36.

(h) (1) In order to qualify for a video lottery operation license under this section, a proposed video lottery facility shall be located in one of the following counties:

(i) a location in Anne Arundel County, within 2 miles of MD Route 295;

(ii) a location in Cecil County, within 2 miles of Interstate 95;

(iii) [except as provided in § 9-1A-11(d) of this subtitle,] a location on State property associated with the Rocky Gap State Park in Allegany County [that shall be in a separate building that may be adjacent or connected to the Rocky Gap Lodge and Golf Resort];

(iv) a location in Worcester County, within 1 mile of the intersection of Route 50 and Route 589; or

(v) a location in Baltimore City that is:

1. located:

A. in a nonresidential area;

- B. within one-half mile of Interstate 95;
 - C. within one-half mile of MD Route 295; and
 - D. on property that is owned by Baltimore City on the date on which the application for a video lottery operation license is submitted; and
2. not adjacent to or within one-quarter mile of property that is:
- A. zoned for residential use; and
 - B. used for a residential dwelling on the date the application for a video lottery operation license is submitted.

(i) (1) Except as provided in paragraphs (2) and (3) of this subsection, the Video Lottery Facility Location Commission may not allocate more than the following number of video lottery terminals for:

(i) a location in Anne Arundel County – 4,750 video lottery terminals;

(ii) a location in Baltimore City – 3,750 video lottery terminals;

(iii) a location in Cecil County – 2,500 video lottery terminals;

(iv) a location in Rocky Gap State Park (Allegany County) – [1,500] 1,000 video lottery terminals; and

(v) a location in Worcester County – 2,500 video lottery terminals.

(2) The Video Lottery Facility Location Commission may allocate video lottery terminals in a manner that is different from the allocation provided in paragraph (1) of this subsection on a determination that the market factors and other factors evaluated under subsection (k) of this section warrant the different allocation, provided that no one location may be allocated more than 4,750 video lottery terminals.

(j) (1) **(I) [An] EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH, AN** application submitted for a video lottery operation license under this section shall include an initial license fee in the application of at least \$3,000,000 for each 500 video lottery terminals included in the application.

(II) FOR AN APPLICATION SUBMITTED FOR A VIDEO LOTTERY OPERATION LICENSE IN ALLEGANY COUNTY, THE INITIAL LICENSE FEE FOR UP TO 500 VIDEO LOTTERY TERMINALS SHALL BE WAIVED.

(2) All initial license fees submitted under this subtitle shall accrue to the Education Trust Fund established under § 9–1A–30 of this subtitle.

(3) (I) An application submitted for a video lottery operation license under this section shall provide for at least \$25,000,000 in direct investment by the applicant in construction and related costs for each 500 video lottery terminals contained in the proposed application that shall be prorated based on the exact number of video lottery terminals contained in the application.

(II) FOR AN APPLICATION SUBMITTED FOR A VIDEO LOTTERY OPERATION LICENSE IN ALLEGANY COUNTY, THE PURCHASE PRICE FOR THE ROCKY GAP LODGE AND RESORT SHALL BE COUNTED IN THE CALCULATION OF THE APPLICANT'S DIRECT INVESTMENT UNDER THIS PARAGRAPH, AS DETERMINED BY THE VIDEO LOTTERY FACILITY LOCATION COMMISSION.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Tax – Property

6–102.

(e) Unless exempted under § 7–211, § 7–211.1, § 7–244, or § 7–501 of this article, the interest or privilege of a person in property that is owned by the federal government, the State, a county, a municipal corporation, or an agency or instrumentality of the federal government, the State, a county, or a municipal corporation is subject to property tax as though the lessee or the user of the property were the owner of the property, if the property is leased or otherwise made available to that person:

(1) by the federal government, the State, a county, a municipal corporation, or an agency or instrumentality of the federal government, the State, a county, or a municipal corporation; and

(2) with the privilege to use the property in connection with a business that is conducted for profit.

~~7–211.~~ 7–244.

~~(I)~~ ~~(1)~~ ~~(A)~~ (1) IN THIS SUBSECTION SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

~~(H)~~ (2) “ASSOCIATED EQUIPMENT” HAS THE MEANING STATED IN § 9-1A-01 OF THE STATE GOVERNMENT ARTICLE.

~~(H)~~ (3) “VIDEO LOTTERY TERMINAL” HAS THE MEANING STATED IN § 9-1A-01 OF THE STATE GOVERNMENT ARTICLE.

~~(2)~~ (B) VIDEO LOTTERY TERMINALS AND ANY ASSOCIATED EQUIPMENT OR SOFTWARE ~~OWNED OR~~ LEASED BY THE STATE LOTTERY COMMISSION AS PROVIDED IN § 9-1A-21 OF THE STATE GOVERNMENT ARTICLE ARE NOT SUBJECT TO PROPERTY TAX.

(C) AN INTEREST OF A PERSON IN VIDEO LOTTERY TERMINALS AND ANY ASSOCIATED EQUIPMENT OR SOFTWARE OWNED BY THE STATE LOTTERY COMMISSION AS PROVIDED IN § 9-1A-21 OF THE STATE GOVERNMENT ARTICLE IS NOT SUBJECT TO PROPERTY TAX.

SECTION 3. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall apply to all taxable years beginning after June 30, 2011.

SECTION ~~2~~ 4. AND BE IT FURTHER ENACTED, That this Act is an emergency measure, is necessary for the immediate preservation of the public health or safety, has been passed by a yea and nay vote supported by three-fifths of all the members elected to each of the two Houses of the General Assembly, and shall take effect from the date it is enacted.

Approved by the Governor, May 10, 2011.