

## Article - State Government

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§9-1A-36.

- (a) There is a Video Lottery Facility Location Commission.
- (b)
  - (1) The Video Lottery Facility Location Commission consists of seven members.
    - (2)
      - (i) Three of the members shall be appointed by the Governor.
      - (ii) Two of the members shall be appointed by the President of the Senate but may not be members of the Senate of Maryland.
      - (iii) Two of the members shall be appointed by the Speaker of the House of Delegates but may not be members of the House.
    - (3) The membership of the Video Lottery Facility Location Commission appointed under this subsection should reflect the race, gender, and geographic diversity of the population of the State.
    - (4) One of the members appointed by the Governor shall be the chair of the Video Lottery Facility Location Commission.
    - (5) The Governor, in consultation with the President of the Senate and the Speaker of the House of Delegates, may remove a member of the Video Lottery Facility Location Commission for inefficiency, misconduct in office, or neglect of duty.
  - (c) A member of the Video Lottery Facility Location Commission:
    - (1) shall be at least 21 years of age;
    - (2) shall be a citizen of the United States;
    - (3) shall be a resident of the State;
    - (4) shall be knowledgeable and experienced in fiscal matters and shall have at least 10 years substantial experience:
      - (i) as an executive with fiduciary responsibilities in charge of a large organization or foundation;
      - (ii) in an academic field relating to finance or economics; or
      - (iii) as an economist, financial analyst, or accountant, or as a professional in a similar profession relating to fiscal matters or economics;
    - (5) may not have been convicted of or granted probation before judgment

for a serious crime or a crime that involves gambling or moral turpitude;

(6) may not have an official relationship to a person that holds a license under this subtitle;

(7) may not have any direct or indirect financial interest, ownership, or management, including holding any stocks, bonds, or other similar financial interests in any gaming activities, including horse racing, video lottery terminals, or lottery;

(8) may not receive or share in, directly or indirectly, the receipts or proceeds of any gaming activities, including horse racing or lottery;

(9) may not have a beneficial interest in any contract for the manufacture or sale of gaming devices, the conduct of any gaming activity, or the provision of any independent consulting services in connection with any gaming establishment or gaming activity;

(10) may not be an elected official of State or local government; and

(11) shall file a financial disclosure statement with the State Ethics Commission in accordance with Title 15, Subtitle 6 of this article.

(d) A member of the Video Lottery Facility Location Commission:

(1) may not receive compensation for serving on the Video Lottery Facility Location Commission; but

(2) is entitled to reimbursement for expenses under the Standard State Travel Regulations, as provided in the State budget.

(e) The State Lottery and Gaming Control Commission shall provide staff to the Video Lottery Facility Location Commission.

(f) The Video Lottery Facility Location Commission may award not more than six video lottery operation licenses to qualified applicants, through a competitive process consistent with the process for competitive sealed proposals under Title 13 of the State Finance and Procurement Article.

(g) The Video Lottery Facility Location Commission may not award more than one video lottery facility operation license in a single county or Baltimore City.

(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) a location on State property associated with the Rocky Gap State Park in Allegany County;

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

(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; or

(vi) a location in Prince George's County within a 4-mile radius of the intersection of Bock Road and St. Barnabas Road.

(2) Nothing in this subtitle may be construed to preempt the exclusive authority of the Video Lottery Facility Location Commission to award video lottery operation licenses in accordance with this subtitle.

(3) (i) With respect to a video lottery operation license awarded to a location under paragraph (1)(iv) of this subsection, the holder of the video lottery operation license or any other person with a direct or indirect legal or financial interest in the Ocean Downs racetrack or video lottery facility may not:

1. build any type of hotel, motel, or other public lodging accommodation on or within 10 miles of the property owned by the holder of the license on which a video lottery facility is operated;

2. convert an existing facility on or within 10 miles of the property described in item 1 of this subparagraph into any type of hotel, motel, or other public lodging accommodation; or

3. build or operate a conference center or convention center, amusement park, amusement rides, arcade, or miniature golf course on or within 10

miles of the property described in item 1 of this subparagraph.

(ii) The prohibitions under subparagraph (i) of this paragraph apply to any subsequent holder of a video lottery operation license awarded under paragraph (1)(iv) of this subsection.

(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 Prince George’s County – 3,000 video lottery terminals;

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

(vi) 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.

(3) (i) Beginning with the termination date for the Video Lottery Facility Location Commission and every 3 years thereafter, if all of the video lottery terminals authorized under this subtitle are not allocated or have been allocated but are not in regular operation, the State Lottery and Gaming Control Commission may allocate or reallocate video lottery terminals to video lottery operation licensees in a manner that ensures that the highest potential revenues are achieved.

(ii) In determining the highest potential revenues to be achieved by additional video lottery terminals at each potential location, the State Lottery and Gaming Control Commission shall consider the market performance of the existing video lottery terminals at each location.

(j) (1) (i) 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.

(k) (1) In awarding a video lottery operation license, the Video Lottery Facility Location Commission shall evaluate the factors under this subsection in the manner specified.

(2) The decision by the Video Lottery Facility Location Commission to award a license shall be weighted by 70% based on business and market factors including:

(i) the highest potential benefit and highest prospective total revenues to be derived by the State;

(ii) the potential revenues from a proposed location based on a market analysis;

(iii) the extent to which the proposed location encourages Maryland gaming participants to remain in the State;

(iv) the extent to which the proposed location demonstrates that the facility will be a substantial regional and national tourist destination;

(v) the proposed facility capital construction plans and competitiveness of the proposed facility;

(vi) the amount of gross revenues to be allocated to the video lottery operator over the term of the license;

(vii) the percent of ownership by entities meeting the definition of minority business enterprise under Title 14, Subtitle 3 of the State Finance and Procurement Article;

(viii) the extent to which the proposed location will preserve existing Maryland jobs and the number of net new jobs to be created; and

(ix) the contents of the licensee's plan to achieve minority business participation goals in accordance with the requirements described under § 9–1A–10(a)(1) and (2) of this subtitle.

(3) The decision by the Video Lottery Facility Location Commission to award a license shall be weighted by 15% based on economic development factors, including:

- (i) the anticipated wages and benefits for new jobs to be created; and
- (ii) any additional economic development planned in the area of the proposed facility.

(4) The decision by the Video Lottery Facility Location Commission to award a license shall be weighted by 15% based on location siting factors, including:

- (i) the existing transportation infrastructure surrounding the proposed facility location;
- (ii) the negative impact, if any, of a proposed facility location on the surrounding residential community; and
- (iii) the need for additional public infrastructure expenditures at the proposed facility.

(l) (1) If an applicant is seeking investors in the entity applying for a video lottery operation license, it shall take the following steps before being awarded a license by the Video Lottery Facility Location Commission:

- (i) make serious, good-faith efforts to solicit and interview a reasonable number of minority investors;
- (ii) as part of the application, submit a statement that lists the names and addresses of all minority investors interviewed and whether or not any of those investors have purchased an equity share in the entity submitting an application; and
- (iii) if an applicant is awarded a license by the Video Lottery Facility Location Commission, the applicant shall sign a memorandum of understanding with the Video Lottery Facility Location Commission that requires the awardee to again make serious, good-faith efforts to interview minority investors in any future attempts to raise venture capital or attract new investors to the entity awarded the license.

(2) The Governor's Office of Minority Affairs, in consultation with the Office of the Attorney General, shall provide assistance to all potential applicants and potential minority investors to satisfy the requirements under paragraph (1)(i) and

(iii) of this subsection.

(m) The Video Lottery Facility Location Commission may not award a video lottery operation license to a person that is not qualified under this section or this subtitle.

(n) (1) The Video Lottery Facility Location Commission shall refer to the State Lottery and Gaming Control Commission the name and all relevant information concerning a person that makes an application under this section.

(2) On receipt of the information in paragraph (1) of this subsection, the State Lottery and Gaming Control Commission shall evaluate whether an applicant is qualified to hold a video lottery operation license under this subtitle.

(3) On completion of its determination, the State Lottery and Gaming Control Commission shall notify the Video Lottery Facility Location Commission of its evaluation as to whether an applicant is qualified to hold a video lottery operation license under this subtitle.

(o) After an award of a video lottery operation license under this section, the Video Lottery Facility Location Commission shall notify the State Lottery and Gaming Control Commission of the successful applicants.

(p) After an award of a video lottery operation license under this section, the State Lottery and Gaming Control Commission shall:

- (1) issue the video lottery operation license; and
- (2) be responsible for all matters relating to regulation of the licensee.

(q) (1) An unsuccessful applicant for a video lottery operation license under this section may seek, under Title 15 of the State Finance and Procurement Article, review by the State Board of Contract Appeals of the awarding of the video lottery operation license by the Video Lottery Facility Location Commission.

- (2) A proceeding under this subsection shall:
- (i) take precedence on the Board's docket;
  - (ii) be heard at the earliest practicable date; and
  - (iii) be expedited in every way.

(r) (1) Nothing in this subtitle may be construed to require the Video Lottery Facility Location Commission to award all six video lottery operation licenses authorized under this subtitle.

- (2) Notwithstanding any of the provisions of this subtitle, the Video

Lottery Facility Location Commission may not award a video lottery operation license under this subtitle unless the Video Lottery Facility Location Commission determines and declares that an applicant selected for award of the license is in the public interest and is consistent with the purposes of this subtitle.

(s) The Video Lottery Facility Location Commission may award a video lottery operation license that is revoked or surrendered utilizing the criteria established in this subtitle.

(t) (1) Except as provided in paragraph (2) of this subsection, the Video Lottery Facility Location Commission shall terminate on January 1, 2015.

(2) The Governor may reconstitute the Video Lottery Facility Location Commission, which shall include the appointment of new members based on the criteria established under subsections (b) and (c) of this section:

(i) one year prior to the expiration of a video lottery operation license; or

(ii) following the revocation or surrender of a video lottery operation license.

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