

**Maryland General Assembly
Department of Legislative Services**

**Proposed Regulation
Maryland State Lottery and Gaming Control Agency
(DLS Control No. 15-379)**

Overview and Legal and Fiscal Impact

This regulation alters the administrative procedures of the State Lottery and Gaming Control Agency relating to public information requests to comply with legislative changes to Maryland's Public Information Act (PIA), as amended by Chapters 135 and 136 of 2015.

The regulation presents no legal issues of concern.

There is no material fiscal impact on State or local agencies.

Regulation of COMAR Affected

Maryland State Lottery and Gaming Control Agency:

General Provisions: Administrative Procedures: COMAR 36.01.02.01

Legal Analysis

Background

Chapters 135 and 136 of 2015 amended the PIA to require a custodian of records to provide specified written notice to an applicant if inspection is denied or if more than 10 working days is needed to produce a record. Furthermore, the Acts modified provisions regarding fees charged for producing a public record so that staff and attorney review costs included in the calculation of actual costs are prorated for each individual's actual time attributable to the search and preparation of the record. Finally, the Acts authorize a custodian to waive fees for indigent applicants. This regulation amends COMAR 36.01.02.01 to comply with these statutory changes.

Summary of Regulation

In addition to various technical changes, including renumbering and deletion of obsolete sections, this regulation makes the following changes:

- amends COMAR 36.01.02.01(C) to add new or replace existing definitions for the terms: "application", "board", "copy", "custodian", "indigent", "metadata", "PIA coordinator", "public information ombudsman", and "reasonable fee";

- amends COMAR 36.01.02.01(E) to alter the requirements for when a written application must be submitted;
- amends COMAR 36.01.02.01(F) to eliminate the written request requirements associated with a request to inspect a public record, substituting alternate application request requirements;
- amends COMAR 36.01.02.01(G) to provide information to a requester, including the location and holder of a public record, the time and fees associated with obtaining a record, and an explanation if a request to inspect a public record is denied;
- adds COMAR 36.01.02.01(I) to provide information about the manner in which a custodian must provide electronic records;
- amends COMAR 36.01.02.01(J) to provide information governing a dispute between a requester and custodian after a denial of record inspection;
- adds COMAR 36.01.02.01(K) to provide restrictions for the temporary denial of an inspection if a custodian believes the inspection would harm the public interest; and
- amends COMAR 36.01.02.01(L) to alter the fees associated with record retrieval, review, and preparation.

Legal Issues

The regulation presents no legal issues of concern.

Statutory Authority and Legislative Intent

The State Lottery and Gaming Control Agency cites §§ 4-101 to 4-601 of the General Provisions Article and § 9-110 of the State Government Article as statutory authority for the regulation. Sections 4-101 to 4-601 concern the PIA. The Act governs the State PIA compliance board, public access to information, inspection of public records, denials of inspection, and judicial review. Section 9-110 of the State Government Article broadly authorizes the Director to adopt regulations for “all matters that are necessary or desirable for the efficient and economical operation and administration of the State lottery.”

This authority is correct and complete. The regulation complies with the legislative intent of the law.

Technical Corrections and Special Notes

The agency’s initial submission omitted text under COMAR 36.01.02.01(J) regarding the review of denial. The Department of Legislative Services advised the Agency of the omission. The agency indicated that it will correct the issue, and this analysis reflects that correction.

Fiscal Analysis

There is no material fiscal impact on State or local agencies.

Agency Estimate of Projected Fiscal Impact

The regulation makes administrative procedural changes on how the agency responds to PIA requests in order to conform to provisions of Senate Bill 695 and House Bill 755 of 2015 (enacted as Chapters 135 and 136). The agency advises that the regulation has no impact on State or local governments. The Department of Legislative Services concurs that the regulation does not have a material impact beyond the fiscal and policy note estimate for Senate Bill 695 and House Bill 755. The fiscal and policy note estimate for that legislation assumed agencies could experience a higher volume of PIA requests and would be subject to accelerated timelines and additional requirements for responses and complaint resolution.

Impact on Budget

There is no impact on the State operating or capital budget.

Agency Estimate of Projected Small Business Impact

The agency advises that the regulation has minimal or no economic impact on small businesses in the State. The Department of Legislative Services concurs.

Contact Information

Legal Analysis: Benjamin Blank – (410) 946/(301) 970-5350

Fiscal Analysis: Heather N. Ruby – (410) 946/(301) 970-5510