

**Department of Legislative Services**  
Maryland General Assembly  
2004 Session

**FISCAL AND POLICY NOTE**

House Bill 750  
Ways and Means

(Delegate C. Davis)

Finance

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**State Lottery - Licensed Agents - Banks - Commingling of Proceeds**

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This bill authorizes a licensed agent of the State lottery to deposit specified receipts from the sale of State lottery tickets or shares with a bank that the licensed agent selects. The bill also authorizes a licensed agent to commingle proceeds collected or deposited from the sale of State lottery tickets or shares with business receipts of the licensed agent.

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**Fiscal Summary**

**State Effect:** The extent of any general fund revenue loss depends on a number of unknown factors, including the number of agents that currently commingle proceeds and the bankruptcy and business failure rates for lottery retailers. Under one set of assumptions, general fund revenues could decrease by \$46,200 annually.

**Local Effect:** None.

**Small Business Effect:** Minimal.

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**Analysis**

**Current Law:** Licensed lottery agents must deposit, with a bank that the Treasurer designates and to the credit of the State Lottery Fund, all receipts from the sale of State lottery tickets or shares less any commission and validation prize payout. All proceeds collected or deposited from the sale of lottery tickets or shares constitute a trust for the benefit of the Maryland State Lottery Agency until remitted and paid either directly or through the agency's authorized collection representative. Proceeds include cash

proceeds of the sale of any lottery products less any commission and validation prize payout.

**Background:** The State lottery collects sales proceeds from its licensed sales agents on a weekly basis. The following indicates losses resulting from nonpayment of funds for fiscal 2001 to 2003.

<u>Fiscal Year</u>	<u>Nonpayment Losses</u>
2001	\$176,627
2002	\$174,314
2003	\$241,793

In its December 2002 audit report, the Office of Legislative Audits (OLA) recommended that the Lottery Agency take immediate action to enforce provisions that lottery agents have a separate bank account for lottery revenues. OLA advised that separate accounts would: (1) reduce the risk of nonpayment of lottery proceeds to the State in the event that an agent enters bankruptcy; and (2) help detect sooner the improper activation of instant book tickets. OLA estimated in its November 2003 *State Lottery Agency Follow-up Review* that approximately 2,000 of 2,600 lottery agents (approximately 77%) had established separate bank accounts, although not all were State Treasurer designated accounts.

Delaware and Virginia require lottery agents to maintain separate bank accounts for lottery proceeds, while Pennsylvania and West Virginia allow agents to commingle lottery proceeds with business receipts.

**State Revenue Effect:** The actual cost of the bill, which cannot be reliably estimated at this time, depends on the number of agents that currently commingle proceeds and the bankruptcy and business failure rates for lottery retailers.

However, *for illustrative purposes only*, general fund revenues could decline by approximately \$46,200 in fiscal 2005. This estimate is based on the following facts and assumptions:

- 2,000 agents currently have separate bank accounts dedicated to lottery proceeds;
- these agents would commingle proceeds if authorized to;
- the average nonpayment loss was \$3,556 in fiscal 2003; and
- in 2001, there was one personal bankruptcy for every 155 persons in the State.

Therefore, in fiscal 2005, it can be expected that 13 lottery agents who have separate accounts now, but would commingle proceeds under the provisions of this bill, will file for bankruptcy resulting in nonpayment losses.

General fund losses will be greater to the extent that: (1) additional nonpayment losses occur from a lottery retailer terminating business operations without filing bankruptcy; and (2) lottery retailers file bankruptcy more frequently than the average Maryland rate.

**Small Business Effect:** Many lottery retailers are small businesses. To the extent that having an additional bank account dedicated to lottery proceeds imposes additional costs to lottery retailers, small businesses could benefit minimally from allowing the commingling of lottery proceeds.

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### **Additional Information**

**Prior Introductions:** An identical bill, SB 62 of 2003, passed the Senate but was not reported from the House Ways and Means Committee.

**Cross File:** None, although SB 298 is identical.

**Information Source(s):** Census Bureau, Economy.com, State Lottery Agency, Department of Legislative Services

**Fiscal Note History:** First Reader - March 14, 2004  
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