

HOUSE BILL 531

C7

EMERGENCY BILL

9lr0756

By: **Delegate F. Turner**

Introduced and read first time: February 5, 2009

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Gaming – Video Lottery Terminals**

3 FOR the purpose of repealing a certain requirement that the State Lottery
4 Commission conduct certain hearings; clarifying the authority of the Video
5 Lottery Facility Location Commission to award video lottery operation licenses
6 under this subtitle; clarifying the authority of the State Lottery Commission to
7 issue certain licenses under this subtitle; providing that certain individuals
8 must be licensed under this subtitle; altering certain eligibility criteria and
9 disqualifying criteria used by the State Lottery Commission for a video lottery
10 operation license; providing that certain video lottery terminal operations may
11 begin in a temporary facility under certain circumstances; providing for when
12 the term for a video lottery operation license begins; providing that the
13 admissions and amusement tax does not apply to the operations of video lottery
14 terminals; clarifying that the Video Lottery Facility Location Commission may
15 reissue a video lottery operation license under certain circumstances; defining a
16 certain term; altering certain definitions; making technical changes; making
17 this Act an emergency measure; and generally relating to the operation of video
18 lottery terminals in the State.

19 BY repealing and reenacting, with amendments,
20 Article – State Government
21 Section 9–1A–01, 9–1A–02(d), 9–1A–04(a), 9–1A–05, 9–1A–07, 9–1A–08,
22 9–1A–11, 9–1A–13, 9–1A–16, 9–1A–20(b) and (d), 9–1A–26, 9–1A–27, and
23 9–1A–36
24 Annotated Code of Maryland
25 (2004 Replacement Volume and 2008 Supplement)

26 BY repealing and reenacting, without amendments,
27 Article – State Government
28 Section 9–1A–02(a) and (b)
29 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



(2004 Replacement Volume and 2008 Supplement)

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

Article – State Government

9–1A–01.

(a) In this subtitle the following words have the meanings indicated.

(b) “Applicant” means a person who applies for any license required under this subtitle.

(c) “Associated equipment” means hardware located on the licensee’s premises that is connected to the video lottery system for the purpose of performing communication, validation, or other functions, but not including the communication facilities of a regulated utility or the video lottery terminals.

(d) “Average payout percentage” means the average percentage of money used by players to play a video lottery terminal that is returned to players of that video lottery terminal.

(E) “AWARD” MEANS THE ACT, BY THE VIDEO LOTTERY FACILITY LOCATION COMMISSION, OF APPROVING THE ISSUANCE OF A VIDEO LOTTERY OPERATION LICENSE BY THE STATE LOTTERY COMMISSION TO AN APPLICANT FOR THE OPERATION OF VIDEO LOTTERY TERMINALS AT A SPECIFIED LOCATION.

[(e)] (F) “Background investigation” means a security, criminal, and credit investigation of a person who applies for or who is granted a license under this subtitle.

[(f)] (G) “Career offender” means a person whose behavior is pursued in an occupational manner or context for the purpose of economic gain and who utilizes methods that are deemed by the Commission as criminal violations inimical to the interest of the State.

[(g)] (H) “Career offender cartel” means a group of persons who operate together as career offenders.

[(h)] (I) “Central monitor and control system” means a central system provided to and controlled by the Commission to which video lottery terminals communicate for purposes of:

(1) information retrieval;

1 (2) retrieval of the win and loss determination from video lottery
2 terminals; and

3 (3) programs to activate and disable video lottery terminals.

4 [(i)] (J) “Central Repository” means the Criminal Justice Information
5 System Central Repository of the Department of Public Safety and Correctional
6 Services.

7 [(j)] (K) “Commission” means the State Lottery Commission.

8 [(k)] (L) “Control” means the authority to direct the management and
9 policies of an applicant or licensee.

10 [(l)] (M) “Costs” means, unless the context otherwise requires, the expenses
11 incurred by the Commission in the administration of this subtitle, including:

12 (1) the costs of leasing or the capitalized cost of purchasing the video
13 lottery terminals, central monitor and control system, and associated equipment and
14 software;

15 (2) the costs to repair and maintain the video lottery terminals,
16 central monitor and control system, and associated equipment and software to the
17 extent these costs are not included in the costs of leasing or purchasing the video
18 lottery terminals, central monitor and control system, and associated equipment and
19 software;

20 (3) the costs of testing and examination of video lottery terminals and
21 the central monitor and control system; and

22 (4) the costs of performing background investigations and other
23 related activities.

24 [(m)] (N) “Family” means spouse, parents, grandparents, children,
25 grandchildren, siblings, uncles, aunts, nephews, nieces, fathers-in-law,
26 mothers-in-law, daughters-in-law, sons-in-law, brothers-in-law, and
27 sisters-in-law, whether by whole blood or half blood, by marriage, adoption, or
28 natural relationship.

29 [(n)] (O) “License” means, unless the context otherwise requires, a license
30 required under this subtitle.

31 [(o)] (P) “Licensee” means an applicant who has been issued a license
32 required under this subtitle.

33 [(p)] (Q) “Manufacturer” means a person:

1 (1) that is engaged in the business of designing, building, constructing,
2 assembling, manufacturing, or distributing a central monitor and control system,
3 video lottery terminals, associated equipment or software, or the cabinet in which a
4 video lottery terminal is housed;

5 (2) that produces a product that is intended for sale, lease, or other
6 assignment to the Commission or a licensee; and

7 (3) that contracts with the Commission or a licensee for the sale, lease,
8 or other assignment of a product described in paragraph (1) of this subsection.

9 [(q)] (R) “Own” means having a beneficial or proprietary interest [of at least
10 10%] in the property or business of an applicant or licensee.

11 [(r)] (S) “Player” means an individual who plays a video lottery terminal at
12 a video lottery facility licensed by the Commission.

13 [(s)] (T) (1) “Proceeds” means the part of the amount of money bet
14 through video lottery terminals that is not returned to successful players but is
15 otherwise allocated under this subtitle.

16 (2) (i) Subject to subparagraph (ii) of this paragraph, “proceeds”
17 does not include money given away by a video lottery operation licensee as free
18 promotional play and used by players to bet in a video lottery terminal.

19 (ii) After the first fiscal year of operations, the exclusion
20 specified in subparagraph (i) of this paragraph may not exceed a percentage
21 established by the Commission by regulation of the proceeds received in the prior
22 fiscal year by the video lottery operation licensee under § 9-1A-27(a)(2) of this
23 subtitle.

24 [(t)] (U) “Progressive jackpot” means a prize that increases as one or more
25 video lottery terminals are connected to a progressive jackpot system.

26 [(u)] (V) “Progressive jackpot system” means a system capable of linking
27 one or more video lottery terminals in one or more licensed facilities and offering one
28 or more common progressive jackpots.

29 [(v)] (W) “Video lottery” means gaming or betting conducted using a video
30 lottery terminal.

31 [(w)] (X) “Video lottery destination location” means a location that is eligible
32 for or has been awarded in the manner provided by law a video lottery operation
33 license.

34 [(x)] (Y) “Video lottery employee” means an employee of a person who holds
35 a license.

1 [(y)] (Z) “Video lottery facility” means a facility at which players play video
2 lottery terminals under this subtitle.

3 [(z)] (AA) “Video lottery operation license” means a license **AWARDED BY**
4 **THE VIDEO LOTTERY FACILITY LOCATION COMMISSION AND** issued **BY THE**
5 **STATE LOTTERY COMMISSION** to a person that allows players to operate video
6 lottery terminals.

7 (BB) **“VIDEO LOTTERY OPERATOR” MEANS A PERSON LICENSED TO**
8 **OPERATE A VIDEO LOTTERY FACILITY UNDER THIS SUBTITLE.**

9 [(aa)] (CC) (1) “Video lottery terminal” means any machine or other device
10 that, on insertion of a bill, coin, token, voucher, ticket, coupon, or similar item, or on
11 payment of any consideration:

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

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

19 (2) “Video lottery terminal” includes a machine or device:

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

22 (ii) described under paragraph (1) of this subsection that uses
23 an electronic credit system making the deposit of bills, coins, or tokens unnecessary.

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

27 9–1A–02.

28 (a) This subtitle is statewide and exclusive in its effect.

29 (b) (1) The Commission shall regulate the operation of video lottery
30 terminals in accordance with this subtitle.

31 (2) The Maryland State Lottery Agency shall provide assistance to the
32 Commission in the performance of the Commission’s duties under this subtitle.

(d) Only a person with a video lottery operation license issued [by the Commission] **UNDER THIS SUBTITLE** may offer a video lottery terminal for public use in the State under this subtitle.

9-1A-04.

(a) The Commission shall:

(1) [hear and decide,] 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;

(2) ISSUE LICENSES IN ACCORDANCE WITH THIS SUBTITLE;

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

[(3)] (4) conduct hearings concerning civil violations of this subtitle or regulations issued under this subtitle;

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

[(5)] (6) 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;

[(6)] (7) levy and collect civil penalties for civil violations of the provisions of this subtitle or regulations issued under this subtitle;

[(7)] (8) 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

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

9-1A-05.

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

(1) [issue] **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.

(b) An owner or operator of a video lottery destination location described under § 9-1A-01 of this subtitle may submit an application for a video lottery operation license.

(c) A **VIDEO LOTTERY OPERATION** license issued under this subtitle is not valid at a geographic location other than the geographic location [of the video lottery destination location at the time the license is issued] **AUTHORIZED IN THE LICENSE AWARDED BY THE VIDEO LOTTERY FACILITY LOCATION COMMISSION AND ISSUED BY THE STATE LOTTERY COMMISSION.**

(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 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.

9-1A-07.

(a) [An] **EXCEPT AS PROVIDED IN § 9-1A-36 OF THIS SUBTITLE, AN** applicant for a license shall submit to the Commission an application:

(1) in the form that the Commission requires; and

(2) on or before the date set by the Commission.

(b) (1) This subsection does not apply to license fees for a video lottery operation license.

(2) The Commission shall by regulation establish a fee for a license under this subtitle.

(3) An applicant shall submit the fee with the application.

(c) (1) Applicants and licensees shall have the affirmative responsibility to establish by clear and convincing evidence the person's qualifications.

(2) Applicants and licensees shall provide information required by this subtitle and satisfy requests for information relating to qualifications in the form specified by the Commission **OR THE VIDEO LOTTERY FACILITY LOCATION COMMISSION, IF APPLICABLE.**

(3) Applicants and licensees shall consent to inspections, searches, and seizures authorized by this subtitle or regulations issued under this subtitle.

(4) (i) Applicants and licensees shall have the continuing duty to:

1. provide assistance or information required by the Commission; and
2. cooperate in an inquiry, investigation, or hearing conducted by the Commission.

(ii) On issuance of a formal request to answer or produce information, evidence, or testimony, if an applicant or licensee refuses to comply, the application or license of the person may be denied, suspended, or revoked by the Commission.

(5) (i) If the applicant is an individual, the applicant shall be photographed and fingerprinted for identification and investigation purposes.

(ii) If the applicant is not an individual, the Commission by regulation may establish the categories of individuals who shall be photographed and fingerprinted for identification and investigation purposes.

(6) (i) Applicants and licensees shall have a duty to inform the Commission of an act or omission that the person knows or should know constitutes a violation of this subtitle or the regulations issued under this subtitle.

(ii) Applicants and licensees may not discriminate against a person who in good faith informs the Commission of an act or omission that the person believes constitutes a violation of this subtitle or the regulations issued under this subtitle.

(7) Applicants and licensees shall produce information, documentation, and assurances to establish the following qualification criteria by clear and convincing evidence:

(i) the financial stability, integrity, and responsibility of the applicant or licensee;

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

(iii) the applicant's or licensee's good character, honesty, and integrity;

(iv) sufficient business ability and experience of the applicant or licensee; and

(v) that:

1. the applicant or licensee has entered into a labor peace agreement with each labor organization that is actively engaged in representing or attempting to represent video lottery and hospitality industry workers in the State;

2. the labor peace agreement is valid and enforceable under 29 U.S.C. § 185;

3. the labor peace agreement protects the State's revenues by prohibiting the labor organization and its members from engaging in picketing, work stoppages, boycotts, and any other economic interference with the operation of the video lottery facility within the first 5 years of the effective date of the video lottery operation license; and

4. the labor peace agreement applies to all operations at the video lottery facility that are conducted by a lessee or tenant or under a management agreement.

(d) On the filing of an application for any license required under this subtitle and any supplemental information required by the Commission, the Commission shall:

(1) refer the application to the Department of State Police or an approved vendor under § 9-1A-20 of this subtitle to conduct a background investigation on the qualifications of the applicant and any person who is required to be qualified under this subtitle as a condition of a license; and

(2) if the applicant is applying for a video lottery operation license, conduct a hearing on the qualifications of the applicant and any person who is required to be qualified under this subtitle as a condition of a license].

(e) (1) [After] **EXCEPT FOR A VIDEO LOTTERY OPERATION LICENSE, AFTER** receiving the results of the background investigation [and conducting any hearing required under this subtitle], the Commission may either grant a license to an applicant whom the Commission determines to be qualified or deny the license to an applicant whom the Commission determines to be not qualified or disqualified.

1 (2) If an application for a license is denied, the Commission shall
2 prepare and file an order denying the license with a statement of the reasons for the
3 denial, including the specific findings of fact.

4 (f) Except **FOR A VIDEO LOTTERY OPERATION LICENSE** as provided in §
5 9–1A–13 of this subtitle, if satisfied that an applicant is qualified to receive a license,
6 and on tender of all required application, license, and other fees and taxes, and any
7 bond required under § 9–1A–04(e) of this subtitle, the Commission shall issue a license
8 for a term of 1 year.

9 (g) (1) An individual may not knowingly give false information or make a
10 material misstatement in an application required for any license under this subtitle or
11 in any supplemental information required by the Commission.

12 (2) An individual who violates this section is guilty of a misdemeanor
13 and on conviction is subject to imprisonment not exceeding 3 years or a fine not
14 exceeding \$5,000 or both.

15 9–1A–08.

16 (a) In addition to other information required by this subtitle, a business
17 entity applying for a video lottery operation license shall provide the following
18 information:

19 (1) the organization, financial structure, and nature of all businesses
20 operated by the business entity;

21 (2) the names, personal employment, and, when applicable, criminal
22 histories of the officers, directors, partners, and principal employees of the business
23 entity;

24 (3) the names of all holding, intermediary, and subsidiary companies
25 or other similar business entities of the business entity;

26 (4) the organization, financial structure, and nature of all businesses
27 operated by the business entity's holding, intermediary, and subsidiary companies or
28 other similar business entities;

29 (5) the rights and privileges acquired by the holders of different
30 classes of authorized securities, partnership interests, or other similar ownership
31 interests of the business entity and its holding, intermediary, and subsidiary
32 companies or other similar business entities;

33 (6) the terms on which the securities, partnership interests, or other
34 similar ownership interests have been or are to be offered;

1 (7) the terms and conditions of all outstanding loans, mortgages, trust
2 deeds, pledges, or other indebtedness or security devices utilized by the business
3 entity;

4 (8) the extent of the equity security holding in the business entity of
5 the officers, directors, partners, and underwriters and their remuneration in the form
6 of salary, wages, fees, or otherwise;

7 (9) the names of persons other than the directors and officers who
8 occupy positions specified by the Commission or whose compensation exceeds an
9 amount determined by the Commission;

10 (10) the names of persons who own or control the business entity;

11 (11) a description of all bonus and profit sharing arrangements;

12 (12) copies of management and service contracts; and

13 (13) a listing of stock options.

14 (b) If a business entity that applies for a video lottery operation license is a
15 subsidiary or if a business entity holding a video lottery operation license is to become
16 a subsidiary, each holding company and each intermediary company with respect to
17 the business entity shall, as a condition of the subsidiary acquiring or retaining a
18 video lottery operation license:

19 (1) qualify to do business in the State; or

20 (2) furnish the Commission with the information required under
21 subsection (a) of this section and other information that the Commission **OR THE**
22 **VIDEO LOTTERY FACILITY LOCATION COMMISSION** may require.

23 (c) An individual applying for a video lottery operation license shall provide,
24 to the extent applicable to an individual, the information required under subsection (a)
25 of this section in the form required by the Commission.

26 (d) The Commission shall [deny] **DISQUALIFY AN APPLICANT FOR** a video
27 lottery operation license [to an applicant who is disqualified] on the basis of any of the
28 following criteria:

29 (1) failure of the applicant to prove by clear and convincing evidence
30 that the applicant and each person who owns or controls the application are qualified
31 under the provisions of this subtitle;

32 (2) failure of the applicant or any person required to be qualified
33 under this subtitle as a condition of a license to provide information, documentation,
34 and assurances required by this subtitle or requested by the Commission;

1 (3) failure of the applicant or any person required to be qualified
2 under this subtitle as a condition of a license to reveal any fact material to
3 qualification;

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

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

11 (6) current prosecution of the applicant or a person who is required to
12 be qualified under this subtitle as a condition of a license for an offense described
13 under item (5) of this subsection, provided that, at the request of the applicant, the
14 Commission may defer its decision on the application during the pendency of the
15 charge;

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

21 (8) identification of the applicant or a person who is required to be
22 qualified under this subtitle as a condition of a license as a career offender or a
23 member of a career offender cartel or an associate of a career offender or career
24 offender cartel in a manner that creates a reasonable belief that the association is of a
25 nature as to be inimical to the policies of this subtitle;

26 (9) the committing of an act by the applicant or a person who is
27 required to be qualified under this subtitle as a condition of a license that would
28 constitute an offense described under item (5) of this subsection, even if the act has not
29 been or may not be prosecuted under the criminal laws of the State; **AND**

30 (10) willful defiance by the applicant or a person who is required to be
31 qualified under this subtitle as a condition of a license of a legislative investigatory
32 body or other official investigatory body of the United States or a jurisdiction within
33 the United States when the body is engaged in the investigation of crimes relating to
34 gambling, official corruption, or organized crime activity[; and

35 (11) any other reason established in regulations of the Commission as a
36 reason for denying a license].

37 9-1A-11.

1 (a) Any video lottery operation licenses not [issued] **AWARDED** for a location
2 authorized under this subtitle shall automatically revert to the State.

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

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

12 (ii) The Commission may not grant more than two extensions to
13 a licensee under this paragraph.

14 (3) If a video lottery operation licensee fails to comply with the
15 requirements of this subsection, the license issued to the licensee shall be revoked and
16 shall automatically revert to the State.

17 (c) (1) Nothing in this subtitle may be construed to prohibit a video
18 lottery operation licensee that is [awarded] **ISSUED** a license [at a racetrack location]
19 from beginning video lottery terminal operations in a temporary facility that meets the
20 minimum requirements established in regulations adopted by the State Lottery
21 Commission.

22 (2) Notwithstanding the provisions of paragraph (1) of this subsection,
23 a video lottery operation licensee [at a racetrack location] shall be operational in a
24 permanent facility no later than 30 months after the issuance of the video lottery
25 operation license.

26 9-1A-13.

27 (a) The initial term of a video lottery operation license is 15 years **FROM THE**
28 **DATE ON WHICH THE VIDEO LOTTERY FACILITY BECOMES OPERATIONAL IN A**
29 **TEMPORARY OR PERMANENT FACILITY.**

30 (b) During the initial term of a video lottery operation license, the licensee
31 shall provide the Commission with an annual update of the information required
32 under this subtitle for the issuance of a license by the date set by the Commission in
33 regulations and on the form required by the Commission.

34 (c) One year before the expiration of the term of a video lottery operation
35 license, the licensee shall file with the Commission a notice of intent to reapply for the
36 license under this subtitle.

(d) Within 1 year of the end of the initial 15-year license term, a video lottery operation licensee may reapply for a license that has a license term of 10 years and a license fee to be established by statute.

(e) If a licensee has its license revoked or otherwise surrenders the license, the video lottery operation license reverts to the State.

9-1A-16.

(a) For all licenses required under this subtitle other than a video lottery operation license, if an applicant or licensee holds a valid license in another state and the Commission determines that the licensing standards of the other state are comprehensive, thorough, and provide similar adequate safeguards to those provided in this subtitle, the Commission may:

(1) waive some or all of the requirements of this subtitle; and

(2) issue a license to a person having a similar license in another state.

(b) (1) Except as provided in subsection (c) of this section, on the request of an applicant, the Commission may grant an exemption or waiver of a licensing requirement or grounds for denial of a license if the Commission determines that the requirement or grounds for denial of a license as applied to the applicant are not necessary in order to protect the public interest or accomplish the policies established by this subtitle.

(2) On granting to an applicant an exemption or waiver of a licensing requirement or grounds for denial of a license, or at any time after a waiver or exemption has been granted, the Commission may:

(i) limit or place restrictions on the exemption or waiver as the Commission considers necessary in the public interest; and

(ii) require the person that is granted the exemption or waiver to cooperate with the Commission and to provide the Commission with any additional information required by the Commission as a condition of the waiver or exemption.

(c) The Commission may not waive any of the requirements of this subtitle [for issuance of] **RELATED TO** a video lottery operation license.

9-1A-20.

(b) The Department of State Police or an approved vendor shall:

(1) conduct a background investigation in a timely manner of:

- 1 (i) a video lottery [terminal] operation licensee;
2 (ii) a video lottery operator; and
3 (iii) any other applicant the Commission considers necessary;
4 and

5 (2) cooperate with the Commission in obtaining and providing the
6 necessary background investigation information.

7 (d) (1) The Department of State Police or an approved vendor shall apply
8 to the Central Repository for a State and a national criminal history records check for
9 the applicant if required by the Commission.

10 (2) As part of the application for a criminal history records check, the
11 Department of State Police or an approved vendor shall submit to the Central
12 Repository:

13 (i) [two complete sets of] the applicant's legible fingerprints
14 taken [on forms] **IN A FORMAT** approved by the Director of the Central Repository,
15 [and] the Director of the Federal Bureau of Investigation, **AND INTERPOL**;

16 (ii) the fee authorized under § 10-221(b)(7) of the Criminal
17 Procedure Article for access to Maryland criminal history records;

18 (iii) the mandatory processing fee required by the Federal
19 Bureau of Investigation for a national criminal history records check; and

20 (iv) the mandatory processing fee required by Interpol for an
21 international criminal history records check.

22 (3) In accordance with §§ 10-201 through 10-234 of the Criminal
23 Procedure Article, the Central Repository shall forward to the applicant and the
24 Commission a printed statement of the applicant's criminal history record
25 information.

26 (4) Information obtained from the Central Repository under this
27 section:

28 (i) shall be confidential;

29 (ii) may not be disseminated; and

30 (iii) may be used only in connection with the issuance of a license
31 required under this subtitle.

(5) The subject of a criminal history records check under this section may contest the contents of the printed statement issued by the Central Repository as provided in § 10-223 of the Criminal Procedure Article.

9-1A-26.

(a) All proceeds from the operation of video lottery terminals shall be electronically transferred daily into the State Lottery Fund established under Subtitle 3 of this title and distributed as provided under § 9-1A-27 of this subtitle.

(b) (1) The Commission shall account to the Comptroller for all of the revenue under this subtitle.

(2) The proceeds from video lottery terminals shall be under the control of the Comptroller and shall be distributed as provided under § 9-1A-27 of this subtitle.

(C) THE ADMISSIONS AND AMUSEMENT TAX MAY NOT BE IMPOSED ON ANY PROCEEDS FROM THE OPERATION OF VIDEO LOTTERY TERMINALS.

9-1A-27.

(a) 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) to the video lottery operation licensee, the percentage stated in the accepted [bid] **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) 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;

(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) If the costs of the State Lottery Agency are less than the proceeds specified in subsection (a)(1) of this section, any amount not distributed to the State Lottery Agency shall be paid to the Education Trust Fund established under § 9-1A-30 of this subtitle.

(2) The costs of the Commission shall be as provided in the State budget.
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;

1 (ii) in an academic field relating to finance or economics; or

2 (iii) as an economist, financial analyst, or accountant, or as a
3 professional in a similar profession relating to fiscal matters or economics;

4 (5) may not have been convicted of or granted probation before
5 judgment for a serious crime or a crime that involves gambling or moral turpitude;

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

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

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

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

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

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

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

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

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

26 (e) (1) The Commission and the Department of Legislative Services shall
27 provide staff to the Video Lottery Facility Location Commission.

28 (2) The Department of Legislative Services shall contract with an
29 independent consultant that has at least 10 years substantial experience in consulting
30 on matters relating to the gaming industry to assist and advise the Video Lottery
31 Facility Location Commission in the review and analysis of [bids] **APPLICATIONS**
32 submitted under this section.

(f) The Video Lottery Facility Location Commission may award not more than five video lottery operation licenses to qualified [bidders] **APPLICANTS**, through a competitive [bidding] 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 [for a video lottery destination location] 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 that shall be in a building that is physically separate from 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.

(2) Nothing in [paragraph (1)(v)1D of this subsection] **THIS SUBTITLE** may be construed to preempt the exclusive authority of the Video Lottery Facility

1 Location Commission to award video lottery operation licenses in accordance with this
2 subtitle.

3 (3) (i) With respect to a video lottery operation license [issued for]
4 **AWARDED TO** a location under paragraph (1)(iv) of this subsection, the holder of the
5 video lottery operation license or any other person with a direct or indirect legal or
6 financial interest in the Ocean Downs racetrack or video lottery facility may not:

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

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

13 3. build or operate a conference center or convention
14 center, amusement park, amusement rides, arcade, or miniature golf course on or
15 within 10 miles of the property described in item 1 of this subparagraph; or

16 4. offer to patrons of the video lottery facility the playing
17 of live music, floor shows, dancing, dancing exhibitions, performances, or any other
18 form of live entertainment in or near the video lottery facility, provided that the holder
19 of the video lottery operation license for the location under paragraph (1)(iv) of this
20 subsection or another person with a direct or indirect legal or financial interest in the
21 Ocean Downs racetrack or the video lottery facility may allow:

22 A. live fireworks displays to be conducted on the
23 property; and

24 B. a single piano that is played by an individual.

25 (ii) The prohibitions under subparagraph (i) of this paragraph
26 apply to any subsequent holder of a video lottery operation license [issued] **AWARDED**
27 under paragraph (1)(iv) of this subsection.

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

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

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

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

(iv) a location in Rocky Gap State Park (Allegany County) – 1,500 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.

(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 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 Commission shall consider the market performance of the existing video lottery terminals at each location.

(j) (1) [A bid] **AN APPLICATION** submitted for a video lottery operation license [at a video lottery destination location] under this section shall be submitted by February [1] **2**, 2009, and shall include an initial license fee in the [bid] **APPLICATION** of at least \$3,000,000 for each 500 video lottery terminals included in the [bid] **APPLICATION**.

(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) [A bid] **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 [bid] **APPLICATION** that shall be prorated based on the exact number of video lottery terminals contained in the [bid] **APPLICATION**.

(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:

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

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

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

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

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

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

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

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

18 (ix) the contents of the licensee's plan to achieve minority
19 business participation goals in accordance with the requirements described under §
20 9-1A-10(a)(1) and (2) of this subtitle.

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

24 (i) the anticipated wages and benefits for new jobs to be
25 created; and

26 (ii) any additional economic development planned in the area of
27 the proposed facility.

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

30 (i) the existing transportation infrastructure surrounding the
31 proposed facility location;

32 (ii) the negative impact, if any, of a proposed facility location on
33 the surrounding residential community; and

(iii) the need for additional public infrastructure expenditures at the proposed facility.

(1) 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.

(m) (1) The Video Lottery Facility Location Commission shall refer to the State Lottery Commission the name and all relevant information concerning a person that makes [a bid] **AN APPLICATION** under this section.

(2) On receipt of the information in paragraph (1) of this subsection, the State Lottery Commission shall [determine] **EVALUATE** whether [a bidder] **AN APPLICANT** is qualified to hold a video lottery operation license under this subtitle.

(3) On completion of its determination, the State Lottery Commission shall notify the Video Lottery Facility Location Commission of [the determination] **ITS EVALUATION** as to whether [a bidder] **AN APPLICANT** is qualified to hold a video lottery operation license under this subtitle.

(N) AFTER AN AWARD OF A VIDEO LOTTERY OPERATION LICENSE UNDER THIS SECTION, THE VIDEO LOTTERY FACILITY LOCATION COMMISSION SHALL NOTIFY THE STATE LOTTERY COMMISSION OF THE SUCCESSFUL APPLICANTS.

[(n)] **(O)** After **AN** award of a video lottery operation license under this section, the State Lottery Commission shall:

(1) ISSUE THE VIDEO LOTTERY OPERATION LICENSE; AND

(2) be responsible for all matters relating to regulation of the licensee.

[(o)] **(P)** An unsuccessful [bidder] **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.

[(p)] **(Q)** (1) Nothing in this subtitle may be construed to require the Video Lottery Facility Location Commission to [issue] **AWARD** all five 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

1 and declares that [a bid] **AN APPLICANT** selected for award of the license is in the
2 public interest and is consistent with the purposes of this subtitle.

3 [(q)] **(R)** The Video Lottery Facility Location Commission may [reissue]
4 **AWARD** a video lottery operation license that is revoked or surrendered utilizing the
5 criteria established in this subtitle.

6 [(r)] **(S)** (1) Except as provided in paragraph (2) of this subsection, the
7 Video Lottery Facility Location Commission shall terminate on January 1, 2015.

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

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

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

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