

# HOUSE BILL 9

C7  
HB 384/11 – W&M

CONSTITUTIONAL AMENDMENT

3lr3524  
CF 3lr3564

By: **Delegate Smigiel**

Introduced and read first time: August 10, 2012

Assigned to: Rules and Executive Nominations

## A BILL ENTITLED

1 AN ACT concerning

2 **Gaming – Video Lottery Terminals – Repeal of Constitutional Amendment –**  
3 **Changes to Statutory Provisions**

4 FOR the purpose of repealing Article XIX – Video Lottery Terminals of the Maryland  
5 Constitution; specifying in statutory law that the primary purpose of the  
6 operation of video lottery terminals is to raise revenue for certain public  
7 education goals; requiring in statutory law that a video lottery facility comply  
8 with all applicable planning and zoning laws of the local jurisdiction; submitting  
9 this amendment to the qualified voters of the State for their adoption or  
10 rejection; making this Act contingent on the passage and ratification of a certain  
11 Constitutional Amendment; and generally relating to video lottery terminals.

12 BY proposing a repeal of the Maryland Constitution  
13 Article XIX – Video Lottery Terminals  
14 Section 1 and the article designation “Article XIX – Video Lottery Terminals”

15 BY repealing and reenacting, with amendments,  
16 Article – State Government  
17 Section 9–1A–02 and 9–1A–11  
18 Annotated Code of Maryland  
19 (2009 Replacement Volume and 2011 Supplement)

20 BY repealing and reenacting, without amendments,  
21 Article – State Government  
22 Section 9–1A–03, 9–1A–05(a), and 9–1A–36(g) and (h)  
23 Annotated Code of Maryland  
24 (2009 Replacement Volume and 2011 Supplement)

25 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
26 MARYLAND, (Three–fifths of all the members elected to each of the two Houses  
27 concurring), That it be proposed that the Maryland Constitution read as follows:

---

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



## 1 [Article XIX – Video Lottery Terminals]

2 [1.

3 (a) This article does not apply to:

4 (1) Lotteries conducted under Title 9, Subtitle 1 of the State  
5 Government Article of the Annotated Code of Maryland;6 (2) Wagering on horse racing conducted under Title 11 of the Business  
7 Regulation Article of the Annotated Code of Maryland; or8 (3) Gaming conducted under Title 12 or Title 13 of the Criminal Law  
9 Article of the Annotated Code of Maryland.10 (b) In this article, “video lottery operation license” means a license issued to  
11 a person that allows players to operate video lottery terminals.12 (c) (1) Except as provided in subsection (e) of this section, the State may  
13 issue up to five video lottery operation licenses throughout the State for the primary  
14 purpose of raising revenue for:15 (i) Education for the children of the State in public schools,  
16 prekindergarten through grade 12;17 (ii) Public school construction and public school capital  
18 improvements; and19 (iii) Construction of capital projects at community colleges and  
20 public senior higher education institutions.21 (2) Except as provided in subsection (e) of this section, the State may  
22 not authorize the operation of more than 15,000 video lottery terminals in the State.23 (3) Except as provided in subsection (e) of this section, a video lottery  
24 operation license only may be awarded for a video lottery facility in the following  
25 locations:

26 (i) Anne Arundel County, within 2 miles of MD Route 295;

27 (ii) Cecil County, within 2 miles of Interstate 95;

28 (iii) Worcester County, within 1 mile of the intersection of Route  
29 50 and Route 589;

1 (iv) On State property located within Rocky Gap State Park in  
2 Allegany County; or

3 (v) Baltimore City, if the video lottery facility is:

4 1. Located:

5 A. In a nonresidential area;

6 B. Within one-half mile of Interstate 95;

7 C. Within one-half mile of MD Route 295; and

8 D. On property that is owned by Baltimore City on the  
9 date on which the application for a video lottery operation license is submitted; and

10 2. Not adjacent to or within one-quarter mile of property  
11 that is:

12 A. Zoned for residential use; and

13 B. Used for a residential dwelling on the date the  
14 application for a video lottery operation license is submitted.

15 (4) Except as provided in subsection (e) of this section, the State may  
16 not award more than one video lottery operation license in a single county or  
17 Baltimore City.

18 (5) A video lottery facility shall comply with all applicable planning  
19 and zoning laws of the local jurisdiction.

20 (d) Except as provided in subsection (e) of this section, on or after November  
21 15, 2008, the General Assembly may not authorize any additional forms or expansion  
22 of commercial gaming.

23 (e) The General Assembly may only authorize additional forms or expansion  
24 of commercial gaming if approval is granted through a referendum, authorized by an  
25 act of the General Assembly, in a general election by a majority of the qualified voters  
26 in the State.

27 (f) The General Assembly may, from time to time, enact such laws not  
28 inconsistent with this section, as may be necessary and proper to carry out its  
29 provisions.]

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

1 **Article – State Government**

2 9–1A–02.

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

4 (b) (1) The Commission shall regulate the operation of video lottery  
5 terminals in accordance with this subtitle.6 (2) The Maryland State Lottery Agency shall provide assistance to the  
7 Commission in the performance of the Commission’s duties under this subtitle.8 (c) (1) This subtitle authorizes the operation of video lottery terminals  
9 owned or leased by the State that are connected to a central monitor and control  
10 system owned or leased by the State that allows the Commission to monitor a video  
11 lottery terminal.12 (2) The Commission shall provide and operate a single central monitor  
13 and control system into which all licensed video lottery terminals must be connected.

14 (3) The central monitor and control system shall be capable of:

15 (i) continuously monitoring, retrieving, and auditing the  
16 operations, financial data, and program information of all video lottery terminals;17 (ii) allowing the Commission to account for all money inserted  
18 in and payouts made from any video lottery terminal;19 (iii) disabling from operation or play any video lottery terminal  
20 as the Commission deems necessary to carry out the provisions of this subtitle;21 (iv) supporting and monitoring a progressive jackpot system  
22 capable of operating one or more progressive jackpots; and23 (v) providing any other function that the Commission considers  
24 necessary.25 (4) The central monitor and control system shall employ a widely  
26 accepted gaming industry communications protocol to facilitate the ability of video  
27 lottery terminal manufacturers to communicate with the statewide system.28 (5) (i) Except as provided in subparagraph (ii) of this paragraph,  
29 the Commission may not allow a video lottery operation licensee to have access to, or  
30 obtain information from, the central monitor and control system.31 (ii) Only if the access does not in any way affect the integrity or  
32 security of the central monitor and control system, may the Commission allow a video

1 lottery operation licensee to have access to the central monitor and control system that  
2 allows the licensee to obtain information pertinent to the legitimate operation of a  
3 video lottery facility.

4 **(D) THE PRIMARY PURPOSE OF THE OPERATION OF VIDEO LOTTERY**  
5 **TERMINALS IS TO RAISE REVENUE FOR:**

6 **(1) EDUCATION FOR THE CHILDREN OF THE STATE IN PUBLIC**  
7 **SCHOOLS, PREKINDERGARTEN THROUGH GRADE 12;**

8 **(2) PUBLIC SCHOOL CONSTRUCTION AND PUBLIC SCHOOL**  
9 **CAPITAL IMPROVEMENTS; AND**

10 **(3) CONSTRUCTION OF CAPITAL PROJECTS AT COMMUNITY**  
11 **COLLEGES AND PUBLIC SENIOR HIGHER EDUCATION INSTITUTIONS.**

12 **[(d)] (E)** Only a person with a video lottery operation license issued under  
13 this subtitle may offer a video lottery terminal for public use in the State under this  
14 subtitle.

15 9-1A-03.

16 (a) Except as provided in subsection (b) of this section, any additional forms  
17 or expansion of commercial gaming other than as expressly provided in this subtitle  
18 are prohibited.

19 (b) This subtitle, including the authority provided to the Commission under  
20 this subtitle, does not apply to:

21 (1) lotteries conducted under Subtitle 1 of this title;

22 (2) wagering on horse racing conducted under Title 11 of the Business  
23 Regulation Article;

24 (3) the operation of slot machines as provided under Titles 12 and 13  
25 of the Criminal Law Article; or

26 (4) other gaming conducted under Titles 12 and 13 of the Criminal  
27 Law Article.

28 9-1A-05.

29 (a) The Video Lottery Facility Location Commission established under  
30 § 9-1A-36 of this subtitle may not:

31 (1) award more than five video lottery operation licenses;

1                   (2)     award more than 15,000 video lottery terminals for operation at  
2 video lottery facilities in the State;

3                   (3)     subject to the requirements of § 9–1A–36(h) and (i) of this subtitle,  
4 award more than 4,750 terminals for operation at any video lottery facility; and

5                   (4)     for a location in Allegany County:

6                   (i)     award a video lottery operation license to an applicant that  
7 does not agree to purchase the Rocky Gap Lodge and Resort; and

8                   (ii)    notwithstanding § 9–1A–36(i)(2) of this subtitle, award more  
9 than 1,000 video lottery terminals for operation at a video lottery facility in Allegany  
10 County.

11 9–1A–11.

12           (a)     Any video lottery operation licenses not issued or awarded for a location  
13 authorized under this subtitle shall automatically revert to the State.

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

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

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

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

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

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

1           **(D) A VIDEO LOTTERY FACILITY SHALL COMPLY WITH ALL APPLICABLE**  
2 **PLANNING AND ZONING LAWS OF THE LOCAL JURISDICTION.**

3           **[(d)] (E)**     (1)     For a location in Allegany County, if video lottery terminals  
4 are permanently located in the Rocky Gap Lodge and Resort, the licensee shall restrict  
5 public access to the video lottery facility from the Rocky Gap Lodge and Resort.

6                     (2)     (i)     Subject to subparagraph (ii) of this paragraph, for a location  
7 in Allegany County, if video lottery terminals are permanently located in the Rocky  
8 Gap Lodge and Resort and existing meeting space is eliminated as a result of the video  
9 lottery terminals, the licensee shall provide for meeting space that is accessible from  
10 the Rocky Gap Lodge and Resort within 36 months after issuance of the video lottery  
11 operation license, subject to the approval of the Video Lottery Facility Location  
12 Commission and the State Lottery Commission.

13                             (ii)     The licensee shall restrict public access to the video lottery  
14 facility from any meeting space provided under subparagraph (i) of this paragraph.

15     9–1A–36.

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

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

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

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

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

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

28                             (v)     a location in Baltimore City that is:

29                                     1.     located:

30   A.     in a nonresidential area;

31   B.     within one-half mile of Interstate 95;

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

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

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

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

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

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

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

31 A. live fireworks displays to be conducted on the  
32 property; and

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



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

4           SECTION 3. AND BE IT FURTHER ENACTED, That the General Assembly  
5 determines that the amendment to the Maryland Constitution proposed by Section 1  
6 of this Act affects multiple jurisdictions and that the provisions of Article XIV, § 1 of  
7 the Maryland Constitution concerning local approval of constitutional amendments do  
8 not apply.

9           SECTION 4. AND BE IT FURTHER ENACTED, That the amendment to the  
10 Maryland Constitution proposed by Section 1 of this Act shall be submitted to the  
11 qualified voters of the State at the next general election to be held in November, 2012  
12 for their adoption or rejection pursuant to Article XIV of the Maryland Constitution.  
13 At that general election, the vote on this proposed amendment to the Constitution  
14 shall be by ballot, and upon each ballot there shall be printed the words “For the  
15 Constitutional Amendment” and “Against the Constitutional Amendment,” as now  
16 provided by law. Immediately after the election, all returns shall be made to the  
17 Governor of the vote for and against the proposed amendment, as directed by Article  
18 XIV of the Maryland Constitution, and further proceedings had in accordance with  
19 Article XIV.

20           SECTION 5. AND BE IT FURTHER ENACTED, That, except as provided in  
21 Sections 3 and 4 of this Act, this Act shall take effect October 1, 2012, contingent on  
22 the proclamation of the Governor that the Constitutional Amendment proposed in  
23 Section 1 of this Act, having received a majority of the votes cast at the general  
24 election, has been adopted by the people of Maryland. If a majority of votes cast are  
25 against the proposed Constitutional Amendment, the provisions of this Act are of no  
26 effect and null and void.