

HOUSE BILL 733

C7
HB 777/09 – W&M

2lr2293

By: **Delegates Metzgar and Krebs**

Introduced and read first time: February 3, 2022

Assigned to: Ways and Means

A BILL ENTITLED

1 AN ACT concerning

2 **Gaming – Video Lottery Operation License – Baltimore–Washington**
3 **International Thurgood Marshall Airport**

4 FOR the purpose of altering the number of video lottery operation licenses and video lottery
5 terminals that may be awarded by the Video Lottery Facility Location Commission
6 to provide for the award of a video lottery operation license at Baltimore–Washington
7 International Thurgood Marshall Airport under certain conditions; providing that a
8 certain restriction on the number of video lottery operation licenses that may be
9 awarded in a county or Baltimore City is not applicable; providing that a bid for a
10 certain video lottery operation license be made by a certain date; submitting this Act
11 to a referendum of the qualified voters of the State; and generally relating to the
12 operation of video lottery terminals at a certain location in the State.

13 BY repealing and reenacting, with amendments,
14 Article – State Government
15 Section 9–1A–05(a) and 9–1A–36(f) through (j), (r), and (t)
16 Annotated Code of Maryland
17 (2021 Replacement Volume)

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

20 **Article – State Government**

21 9–1A–05.

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

24 (1) award more than [six] **SEVEN** video lottery operation licenses;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2) award more than [16,500] **19,500** video lottery terminals for operation
2 at video lottery facilities in the State;

3 (3) subject to the requirements of **PARAGRAPH (5) OF THIS SUBSECTION**
4 **AND § 9-1A-36(h) and (i) of this subtitle**, award more than 4,750 terminals for operation
5 at any video lottery facility; [and]

6 (4) for a location in Allegany County:

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

9 (ii) notwithstanding § 9-1A-36(i)(2) of this subtitle, award more
10 than 1,500 video lottery terminals for operation at a video lottery facility in Allegany
11 County; **OR**

12 **(5) AWARD MORE THAN 3,000 VIDEO LOTTERY TERMINALS FOR**
13 **OPERATION AT BALTIMORE-WASHINGTON INTERNATIONAL THURGOOD**
14 **MARSHALL AIRPORT.**

15 9-1A-36.

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

20 (g) **(1) THIS SUBSECTION DOES NOT APPLY TO A VIDEO LOTTERY**
21 **OPERATION LICENSE AWARDED FOR OPERATION OF VIDEO LOTTERY TERMINALS AT**
22 **BALTIMORE-WASHINGTON INTERNATIONAL THURGOOD MARSHALL AIRPORT.**

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

25 (h) (1) In order to qualify for a video lottery operation license under this
26 section, a proposed video lottery facility shall be located in one of the following [counties]
27 **LOCATIONS:**

28 (i) [a location] in Anne Arundel County, within 2 miles of MD Route
29 295;

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

1 (iii) [a location] on State property associated with the Rocky Gap
2 State Park in Allegany County;

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

5 (v) [a location] in Baltimore City **ON PROPERTY** that is:

6 1. located:

7 A. in a nonresidential area;

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

9 C. within one-half mile of MD Route 295; and

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

12 2. not adjacent to or within one-quarter mile of property that
13 is:

14 A. zoned for residential use; and

15 B. used for a residential dwelling on the date the application
16 for a video lottery operation license is submitted; **[or]**

17 (vi) [a location] in Prince George's County within a 4-mile radius of
18 the intersection of Bock Road and St. Barnabas Road; **OR**

19 **(VII) AT THE TERMINAL BUILDING AND SURROUNDING AREA**
20 **WITHIN THE SECURITY PERIMETER OF BALTIMORE-WASHINGTON INTERNATIONAL**
21 **THURGOOD MARSHALL AIRPORT.**

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

25 (3) (i) With respect to a video lottery operation license awarded to a
26 location under paragraph (1)(iv) of this subsection, the holder of the video lottery operation
27 license or any other person with a direct or indirect legal or financial interest in the Ocean
28 Downs racetrack or video lottery facility may not build or operate a conference center or
29 convention center, amusement park, amusement rides, arcade, or miniature golf course on
30 or within 10 miles of the property owned by the holder of the license on which a video lottery
31 facility is operated;

(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;

AND

(VII) A LOCATION AT THE TERMINAL BUILDING AND SURROUNDING AREA WITHIN THE SECURITY PERIMETER OF BALTIMORE-WASHINGTON INTERNATIONAL THURGOOD MARSHALL AIRPORT – 3,000 VIDEO LOTTERY TERMINALS.

(2) [The] **EXCEPT AS PROVIDED IN § 9-1A-05(A)(5) OF THIS SUBTITLE, 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] **EXCEPT AS PROVIDED IN § 9-1A-05(A)(5) OF THIS SUBTITLE, 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

1 Control Commission shall consider the market performance of the existing video lottery
2 terminals at each location.

3 (j) (1) (i) Except as provided in subparagraph (ii) of this paragraph **AND**
4 **PARAGRAPH (2) OF THIS SUBSECTION**, an application submitted for a video lottery
5 operation license under this section shall include an initial license fee in the application of
6 at least \$3,000,000 for each 500 video lottery terminals included in the application.

7 (ii) For an application submitted for a video lottery operation license
8 in Allegany County, the initial license fee for up to 500 video lottery terminals shall be
9 waived.

10 (2) **AN APPLICATION SUBMITTED FOR A VIDEO LOTTERY OPERATION**
11 **LICENSE AT BALTIMORE-WASHINGTON INTERNATIONAL THURGOOD MARSHALL**
12 **AIRPORT SHALL BE SUBMITTED BY APRIL 15, 2024.**

13 (3) All initial license fees submitted under this subtitle shall accrue to the
14 Education Trust Fund established under § 9-1A-30 of this subtitle.

15 [(3)] (4) (i) An application submitted for a video lottery operation
16 license under this section shall provide for at least \$25,000,000 in direct investment by the
17 applicant in construction and related costs for each 500 video lottery terminals contained
18 in the proposed application that shall be prorated based on the exact number of video
19 lottery terminals contained in the application.

20 (ii) For an application submitted for a video lottery operation license
21 in Allegany County, the purchase price for the Rocky Gap Lodge and Resort shall be
22 counted in the calculation of the applicant's direct investment under this paragraph, as
23 determined by the Video Lottery Facility Location Commission.

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

27 (2) Notwithstanding any of the provisions of this subtitle, the Video Lottery
28 Facility Location Commission may not award a video lottery operation license under this
29 subtitle unless the Video Lottery Facility Location Commission determines and declares
30 that an applicant selected for award of the license is in the public interest and is consistent
31 with the purposes of this subtitle.

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

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

- 1 (i) [one] 1 year prior to the expiration of a video lottery operation
2 license; [or]
- 3 (ii) following the revocation or surrender of a video lottery operation
4 license; OR

5 (III) FOLLOWING AUTHORIZATION OF AN ADDITIONAL VIDEO
6 LOTTERY OPERATION LICENSE AT BALTIMORE–WASHINGTON INTERNATIONAL
7 THURGOOD MARSHALL AIRPORT.

8 SECTION 2. AND BE IT FURTHER ENACTED, That before this Act, which
9 authorizes additional forms or expansion of commercial gaming, becomes effective, it first
10 shall be submitted to a referendum of the qualified voters of the State at the general
11 election to be held in November 2022, in accordance with Article XIX, § 1(e) of the Maryland
12 Constitution. The State Board of Elections shall do those things necessary and proper to
13 provide for and hold the referendum required by this section. If a majority of the votes cast
14 on the question are “For the referred law”, this Act shall become effective on the 30th day
15 following the official canvass of votes for the referendum, but if a majority of the votes cast
16 on the question are “Against the referred law”, this Act, with no further action required by
17 the General Assembly, shall be null and void.

18 SECTION 3. AND BE IT FURTHER ENACTED, That, subject to the provisions of
19 Section 2 of this Act and for the sole purpose of providing for the referendum required by
20 Section 2 of this Act, this Act shall take effect July 1, 2022.