

MARYLAND REGISTER

**Proposed Action on Regulations**

<b>Transmittal Sheet</b>  <b>PROPOSED OR REPROPOSED</b>  <b>Actions on Regulations</b>	<b>Date Filed with AELR Committee</b> 07/08/2020	<b>TO BE COMPLETED BY DSD</b>
		Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

**1. Desired date of publication in Maryland Register: 7/31/2020**

**2. COMAR Codification**

<b>Title</b>	<b>Subtitle</b>	<b>Chapter</b>	<b>Regulation</b>
36	03	01	02
36	03	02	01 - .04, .06, .12, .17, and .18
36	03	04	03
36	03	06	01 and .02
36	03	10	03, .16, .20, and .28
36	04	01	18 and .28
36	05	03	23
36	08	03	02

**3. Name of Promulgating Authority**

Maryland State Lottery and Gaming Control Agency

<b>4. Name of Regulations Coordinator</b>	<b>Telephone Number</b>
James B Butler	410-230-8781

**Mailing Address**

1800 Washington Blvd., Ste. 330

<b>City</b>	<b>State</b>	<b>Zip Code</b>
Baltimore	MD	21230



Director  
Date  
July 6, 2020

(410) 230-8790

**Title 36**  
**MARYLAND STATE LOTTERY AND GAMING CONTROL**  
**AGENCY**

**Subtitle 03 GAMING PROVISIONS**

**36.03.01 General**

**Subtitle 03 GAMING PROVISIONS**

**36.03.02 Investigation and Licensing**

**Subtitle 03 GAMING PROVISIONS**

**36.03.04 Enforcement**

**Subtitle 03 GAMING PROVISIONS**

**36.03.06 Enforcement of Voluntary Exclusion Program**

**Subtitle 03 GAMING PROVISIONS**

**36.03.10 Video Lottery Facility Minimum Internal Control Standards**

**Subtitle 04 VIDEO LOTTERY TERMINALS**

**36.04.01 Video Lottery Technical Standards**

**Subtitle 05 TABLE GAMES**

**36.05.03 Table Games Procedures**

**Subtitle 08 SKILLS-BASED AMUSEMENT DEVICES**

**36.08.03 Amusement Gaming License**

Authority: 36.03.01: Authority: State Government Article, §§ 9-1A-01, 9-1A-02, and 9-1A-04, Annotated Code of Maryland; 36.03.02: Authority: State Government Article, §§9-1A-01, 9-1A-02, 9-1A-04, 9-1A-06, 9-1A-07, 9-1A-12 –9-1A16, 9-1A-19, and 9-1A-20, Annotated Code of Maryland; 36.03.04: Authority: State Government Article, §§9-1A-04, 9-1A-24, 9-1A-25, Annotated Code of Maryland; 36.03.06: Authority: State Government Article, §9-1A-24, Annotated Code of Maryland; 36.03.10: Authority: State Government Article, §§9-1A-02, 9-1A-04(d), 9-1A-24(f), Annotated Code of Maryland; 36.04.01: Authority: State Government Article, §§9-1A-02, 9-1A-04, Annotated Code of Maryland; 36.05.03: Authority: State Government Article, §§9-1A-02 and 9-1A-04, Annotated Code of Maryland; and 36.08.03: Authority: Criminal Law Article, §§12-301 and 12-301.1, Annotated Code of Maryland.

**Notice of Proposed Action**

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The Maryland State Lottery and Gaming Control Agency proposes to (1) Amend Regulation .02 under COMAR 36.03.01 General;  
(2) Amend Regulations .01 - .04, .06, .12, .17 and .18 under COMAR 36.03.02

Investigation and Licensing;

(3) Amend Regulation .03 under COMAR 36.03.04 Enforcement;

(4) Amend Regulations .01 and .02 under COMAR 36.03.06 Enforcement of Voluntary Exclusion Program;

(5) Amend Regulations .03, .16, .20, and .28 under COMAR 36.03.10 Video Lottery Facility Minimum Internal Control Standards;

(6) Amend Regulations .18 and .28 under COMAR 36.04.01 Video Lottery Technical Standards;

(7) Amend Regulation .23 under COMAR 36.05.03 Table Games Procedures; and

(8) Amend Regulation .02 under COMAR 36.08.03 Amusement Gaming License.

This action was considered at the Maryland Lottery and Gaming Control Commission open meeting held on June 25, 2020, notice of which was given pursuant to General Provisions Article, §3-302(c), Annotated Code of Maryland.

### **Statement of Purpose**

The purpose of this action is to

1. Under COMAR 36.03.02, codify existing processes that Agency staff uses to review a video lottery employee licensee's notice that he or she intends to make a "change in employment status"; clarify that those licensees separated from employment for more than 6 months shall pay the required fee for conducting a criminal history check; clarify that an applicant or licensee always has the burden of proving license qualifications; delete the certified check payee designation for administrative costs and fees for licensing, making the process more easily adaptable for the Agency's Fiscal staff; clarify that Agency staff's approval of an "institutional investor" would generally be valid for a term of 5 years from the date of last approval; restate and clarify that a video lottery employee license is portable in the State, and that nothing precludes the holder of a valid license from working at more than one casino; and increase the vendor registration limit to \$20,000.
2. Under 36.03.06, clarify that, if a casino uses technology to comply with the confidentiality requirements of Regulation .01.B, the casino is responsible for ensuring compliance with all applicable State laws, and for preventing unauthorized access to confidential VEP records; specifically require a casino that uses this technology include the confidentiality assurance with its annual report to the Commission describing its responsible gaming plan.
3. Under 36.03.10, clarify the reporting requirements for a missing form or document that is required to be accounted for by series number or copies of a form or document that are required to be compared for agreement; removes the 90 day follow up requirement and changes the Player Tracking System audit from at least semiannual to at least annual; authorize a facility operator to accept checks issued as a payout in connection with gaming activity from a facility operator that holds a valid gaming license in another jurisdiction, subject to a daily aggregate limit of \$25,000; and authorize a counter check to be redeemed in a gaming pit.
4. Under 36.04.01, authorize a bar-top style video lottery terminal to use different tower lights from an upright VLT; allow the progressive controller to be located in a video lottery terminal, as well as another secured area.

5. Under 36.05.03, clarify the procedures for issuing a manual table game payout document.
6. Under 36.08.03, make this regulation consistent with COMAR 36.08.02.01, which was amended to require registration every other year.

### **Comparison to Federal Standards**

There is no corresponding federal standard to this proposed action.

### **Estimate of Economic Impact**

The proposed action has no economic impact.

### **Economic Impact on Small Businesses**

The proposed action has minimal or no economic impact on small businesses.

### **Impact on Individuals with Disabilities**

The proposed action has no impact on individuals with disabilities.

### **Opportunity for Public Comment**

Comments may be sent to James B. Butler, Managing Director, Organizational Compliance, Maryland Lottery and Gaming Control Agency, 1800 Washington Blvd., Suite 330, Baltimore, MD 21230, or call 410-230-8781, or email to [jbutler@maryland.gov](mailto:jbutler@maryland.gov), or fax to 410-230-8727. Comments will be accepted through August 31, 2020. A public hearing has not been scheduled.

### **Economic Impact Statement Part C**

- A. Fiscal Year in which regulations will become effective: FY 21
- B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?  
Yes
- C. If 'yes', state whether general, special (exact name), or federal funds will be used:  
Gaming (General Funds)  
Gaming (Special Gaming Proceeds)
- D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:
- E. If these regulations have no economic impact under Part A, indicate reason briefly:  
To incorporate provisions that better clarify and define the requirements for VLT and Table Games operations and better conform to the Agency's oversight responsibilities to monitor casino gambling; to update the Regulation of the Maryland Lottery and Gaming

Control Agency to reflect changes in the licensing and renewal requirements and processes, as well as vendor registration and certification requirements; and to update the Regulations of the Maryland Lottery and Gaming Control Agency in a continuing effort to achieve industry best practices.

F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.

To incorporate provisions that better clarify and define the requirements for VLT and Table Games operations and better conform to the Agency's oversight responsibilities to monitor casino gambling; to update the Regulation of the Maryland Lottery and Gaming Control Agency to reflect changes in the licensing and renewal requirements and processes, as well as vendor registration and certification requirements; and to update the Regulations of the Maryland Lottery and Gaming Control Agency in a continuing effort to achieve industry best practices.

G. Small Business Worksheet:

N/A

## Attached Document:

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(July 1, 2020)

### 36.03.01 General

Authority: State Government Article, §§ 9-1A-01, 9-1A-02, and 9-1A-04, Annotated Code of Maryland

#### .02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) "*Change in employment status*" means, for an individual holding an unexpired video lottery employee license:

(a) *Employment at a facility that is different from the facility at which the individual is currently employed;*

(b) *Re-employment at a facility at which the individual was previously employed; and*

(c) *Except for an unexpected termination from employment, a separation from employment with a facility.*

[(1)] (2)—[(30)] (31) (text unchanged)

### 36.03.02 Investigation and Licensing

Authority: State Government Article, §§9-1A-01, 9-1A-02, 9-1A-04, 9-1A-06, 9-1A-07, 9-1A-12 –9-1A16, 9-1A-19, and 9-1A-20, Annotated Code of Maryland

#### .01 Process.

A. General Provisions.

(1) (text unchanged)

(2) If a license *application* must be submitted to the Commission by a particular date, the application documents shall be delivered to the Commission not later than 5 p.m. on the last day of this period, and an application submitted after the deadline may not be accepted or considered by the Commission.

(3) (text unchanged)

B.—C. (text unchanged)

D. *Notice of Intended Change in Licensed Video Lottery Employee's Employment Status.*

(1) Within 14 calendar days before a change in employment status, a licensee shall notify the Commission of the intended change in employment by submitting forms and documents required by the Commission in the manner set forth in §B of this regulation.

(2) A licensee submitting notification of an intended change in employment status shall comply with the application requirements and processes set forth in §B of this regulation.

(3) The Commission shall conduct a background investigation of the individual to verify that the individual's license remains in good standing.

(4) No later than 15 days after the Commission issues the notification that the individual's license is not in good standing, the licensee shall submit:

(a) Information, documentation, or assurances to establish, by clear and convincing evidence, that the licensee remains qualified to hold a license; and

(b) Any other information, documentation, or assurances required by the Commission.

(5) If the licensee has been separated from employment with a facility for more than 6 months and notified the Commission of an intended change in employment status, the licensee shall pay the fee for conducting a criminal history records check specified in Regulation .03B of this chapter.

(6) The Commission may not approve a change in employment status for a video lottery employee licensee who fails to establish, by clear and convincing evidence, all license qualification criteria.

(7) A video lottery employee may not effect a change in employment status without prior Commission approval.

[D.] *E. Burden of Proof.*

(1) [The] *Applicant and licensee shall always bear the burden of proof [shall be on the applicant] to show by clear and convincing evidence that the applicant or licensee complies with the laws and regulations of the Commission regarding eligibility and qualifications for the license[.], including:*

(a) *When an applicant submits a license application;*

(b) *At a hearing on a recommended denial of a license;*

(c) *When a video lottery employee licensee notifies the Commission of an intended change in employment status;*

(d) *At a hearing on a recommended revocation of a license; and*

(e) *In any other instance where qualifications for a license issued under a provision of State Government Article, Title 9, Subtitle 1A, Annotated Code of Maryland are at issue.*

(2)—(3) (text unchanged)

[E.] *Administrative Costs of Background Investigations.*

(1) Promptly upon receipt of an invoice from the Commission, an applicant for a license *or a licensee who has notified the Commission of an intended change in employment status* shall reimburse the Commission for:

(a) The administrative costs associated with performing background investigations of the applicant, *licensee who has notified the Commission of an intended change in employment status*, and any individual required to provide information under Regulation .04 of this chapter; and

(b) (text unchanged)

(2) Failure to reimburse the Commission shall be grounds for disqualification of the applicant, *or disapproval of a licensee's change in employment status.*

(3) The Commission may require an advance deposit from an applicant *or a licensee who has notified the Commission of an intended change in employment status* for the Commission's estimate of the administrative costs of conducting the applicant's *or licensee's* background investigation.

(4) The Commission shall refund [to an applicant] any unused amount of the advance deposit.

[F.] *G. Payment and collection.* Applicants shall pay the administrative costs and fees required under this regulation by:

(1)—(2) (text unchanged)

(3) Certified check [made payable to the "Maryland Lottery and Gaming Control Commission;"]; or

(4) (text unchanged)

[G.] *H. Continuing Obligations.* (text unchanged)

## **.02 Personal and Background Information.**

A.—D. (text unchanged)

*E. A licensee who has notified the Commission of an intended change in employment status shall provide the information as set forth in §B of this regulation.*

[E.] *F.—[F.] G.* (text unchanged)

## **.03 Information for Background Investigation.**

A. [An] *If directed by the Commission, an individual [required to provide information under this chapter] shall also submit three complete legible sets of the individual's fingerprints and complete a background form supplied by the Commission which includes a statement disclosing whether the individual has ever been:*

(1)—(6) (text unchanged)

B.—C. (text unchanged)

#### **.04 Consent for Investigation.**

A. An individual who is required to provide personal and background information under this chapter shall provide a statement that irrevocably gives consent to the Commission, the Location Commission, the Maryland State Police, and persons authorized by the Commission to:

- (1) Verify all information provided in [the application documents] *all documents or forms submitted to the Commission*; and
- (2) (text unchanged)

B. An applicant *or licensee* shall authorize the Commission and, if appropriate, the Location Commission to have access to any and all information the applicant *or licensee* has provided to any other jurisdiction while seeking a similar license in that other jurisdiction, as well as the information obtained by that other jurisdiction during the course of any investigation it may have conducted regarding the applicant.

#### **.06 Owners.**

A.—K. (text unchanged)

L. *Principal Entities as Approved Institutional Investors.*

(1) *A principal entity may request the Commission to waive the requirement of conducting a full background investigation of the principal entity.*

(2) *The Commission may approve a principal entity's request for a waiver if the principal entity:*

(a) *Meets one of the definitions of institutional investor in State Gov't § 9-1A-01, Annotated Code of Maryland; and*

(b) *Satisfactorily completes and submits an institutional investor waiver application as required by the Commission.*

(3) *A principal entity for which the Commission has approved a waiver request under §L(2) of this Regulation is an approved institutional investor.*

(4) *An institutional investor may maintain an approved waiver as an institutional investor by:*

(a) *Maintaining an ownership interest in an applicant or licensee; and*

(b) *Providing the Commission with the statement of ownership percentage it reported to the Securities and Exchange Commission:*

(i) *Annually, before the last day of April; or*

(ii) *As otherwise directed by the Commission.*

(5) *If an approved institutional investor complies with §L(4) of this Regulation, the Commission's approval is valid for 5 years from the date of approval, and:*

(a) *The waiver may apply to one or more applicants or licensees in which the entity is an institutional investor; and*

(b) *The institutional investor shall submit an institutional waiver application every five years from the date of the Commission's last approval.*

(6) *If an approved institutional investor does not meet the requirements of L(4) of this Regulation with respect to one or more applicants or licensees:*

(a) *The approved institutional investor shall notify the Commission in writing if the institutional investor's ownership interest falls below 5%; and*

(b) *The Commission may require the institutional investor to submit a new waiver application if the institutional investor acquires an ownership interest of 5% or greater in any applicant or licensee.*

#### **.12 Video Lottery Employee Licenses.**

A. General. Unless an individual holds a valid video lottery employee license *that is in good standing* issued by the Commission, the individual may not be employed by a licensed facility operator, manufacturer, or contractor as a video lottery employee.

B.—D. (text unchanged)

E. *Employment by a Video Lottery Employee Licensee.*

(1) *A video lottery employee license authorizes the licensee to be employed as a principal, gaming or nongaming employee in the State.*

(2) *Nothing in this chapter precludes a licensee from being employed by more than one facility, concurrently or consecutively, while the individual's license is in good standing.*

F.—I. (text unchanged)

#### **.17 Vendor Registration and Certification.**

A.—C-1. (text unchanged)

D. *Vendor Registration.*

(1) *A vendor that provides, or anticipates providing, in a calendar year nongaming related goods and services to a single video lottery applicant or licensee that are valued from [ \$10,000 ] \$20,000 to \$299,999 shall be registered with the Commission.*

(2)—(3) (text unchanged)



E.—L. (text unchanged)

#### **.18 Identification Cards for Video Lottery Employees.**

A.—D. (text unchanged)

E. Surrender and Reissuance of Identification Card.

(1)—(3) (text unchanged)

[(4) There is no fee for an identification card issued under §E(3) of this regulation.]

[(5)] (4) Nothing in this regulation shall preclude the Commission from taking enforcement action against a licensee based on the circumstances related to the licensee's separation from employment *or information obtained while reviewing a licensee's notification of an intended change in employment status.*

### **36.03.04 Enforcement**

Authority: State Government Article, §§9-1A-04, 9-1A-24, 9-1A-25, Annotated Code of Maryland

#### **.03 Violations.**

A licensee may not:

A.—B. (text unchanged)

C. Fail to:

(1) Conform to the information contained in a license application;

(2) Meet a licensing requirement;

(3) Promptly submit to the Commission a change to the information contained in a license application; [or]

(4) Adequately remedy a deficiency of which the licensee has received notice under Regulation .04E of this chapter[.]; *or*

(5) *Maintain a video lottery employee license in good standing.*

### **36.03.06 Enforcement of Voluntary Exclusion Program**

Authority: State Government Article, §9-1A-24, Annotated Code of Maryland

#### **.01 Enforcement.**

A.—B. (text unchanged)

C. *If a facility operator uses technology for the purpose of complying with §E of this regulation, the facility operator shall ensure that the technology:*

(1) *Complies with all applicable State requirements; and*

(2) *Is designed to prevent unauthorized access to confidential records.*

[C.] D.—[D.] E. (text unchanged)

#### **.02 Responsible Gaming Plan.**

A.—C. (text unchanged)

D. A facility operator shall submit to the Commission an annual report describing the facility's responsible gaming plan, *which shall include a statement regarding compliance with Regulation .01C of this chapter.*

### **36.03.10 Video Lottery Facility Minimum Internal Control Standards**

Authority: State Government Article, §§9-1A-02, 9-1A-04(d), 9-1A-24(f), Annotated Code of Maryland

#### **.03 Forms and Documents.**

A.—B. (text unchanged)

C. If under this chapter a form or document is required to be accounted for by series number or copies of a form or document are required to be compared for agreement, the [responsible] *accounting* department shall report exceptions in writing to the *responsible department and facility's internal audit department* not later than 2 days after identification of the exception.

D. (text unchanged)

#### **.16 Internal Audit Department Standards.**

A. (text unchanged)

B. A facility operator's internal audit department operating procedures and standards shall, at a minimum, require the internal audit department to:

(1)—(10) (text unchanged)

(11) [Within 90 days of the issuance of an audit report, verify] *Verify* that:

(a)—(b) (text unchanged)

C. The audit department shall audit at least semiannually the functions and operations of the facility's:

- (1)—(6) (text unchanged)
- [(7) Player tracking system;]
- [(8)] (7)—[(9)] (8) (text unchanged)

D. The audit department shall audit at least annually:

- (1)—(6) (text unchanged)
- (7) Purchasing; [and]
- (8) Surveillance department; *and*
- (9) *Player tracking system.*

E. (text unchanged)

#### **.20 Checks Accepted from a Player.**

A.—J. (text unchanged)

*K. Subject to the limit in §F(2) of this regulation, a facility operator may accept a check issued to an individual as a payout in connection with gaming activity from a facility operator that holds a valid gaming license in another jurisdiction.*

#### **.28 Counter Check Substitution, Consolidation, and Redemption.**

A.—G. (text unchanged)

H. A facility operator may conduct a substitution, consolidation, [or] *and full or partial redemption transaction:*

- (1) *At the cashiers' cage during the hours of operation approved by the Commission for the facility under COMAR 36.03.11.02;*
- (2) *By mail; [or]*
- (3) *At an off-site customer service location[.]; or*
- (4) *In a table game pit.*

I. (text unchanged)

*J. A facility operator may allow a player to redeem a counter check at a gaming table in exchange for gaming chips.*

*K. A facility operator's internal controls for redeeming a counter check at a gaming table shall include:*

- (1) *A requirement that a redemption occur:*
  - (a) *On the same gaming day the counter check is issued;*
  - (b) *At the same gaming pit where the counter check was issued and held for pit redemption;*
- (2) *A requirement that a general cashier or casino clerk:*
  - (a) *Remove the original and redemption copy of the counter check from its secured location in the pit;*
  - (b) *Prepare a two-part serially prenumbered pit redemption form in accordance with this regulation;*
  - (c) *Present the pit redemption form and the original and redemption copy of the counter check to the dealer or boxperson, in the presence of a floorperson or above;*
- (3) *Procedures and controls over the counter check redemption process which require:*
  - (a) *A dealer or boxperson to verify that the amount of chips received from the player agrees with the amount of the original counter check and the pit redemption form;*
  - (b) *The dealer or boxperson to place the gaming chips from the player into the table inventory;*
  - (c) *The dealer or boxperson, and the floorperson to sign the pit redemption form and;*
  - (d) *The dealer or boxperson to deposit the original of the pit redemption form in the drop box;*
  - (e) *The floorperson to return the original counter check to the player; and*
  - (f) *The floorperson to return the redemption copy of the counter check and the duplicate of the pit redemption form to the general cashier or casino clerk;*
  - (g) *The general cashier or casino clerk to forward the redemption copy of the counter check to the check bank for processing; and*
  - (h) *The cashiers' cage to forward the duplicate of the pit redemption form to the casino accounting department at the end of the gaming day; and*
- (4) *A requirement that the general cashier or casino clerk records the following information on a two-part serially prenumbered pit redemption form residing in a book, wiz machine, or functional equivalent, the:*
  - (a) *Date and time of redemption;*
  - (b) *Identification number of the table game;*
  - (c) *Player's name;*
  - (d) *Counter check number and amount;*
  - (e) *Signature of the general cashier or casino clerk;*
  - (f) *Signature of the table game dealer or boxperson; and*
  - (g) *Signature of the floorperson or above.*

[J.] L. (text unchanged)

### **36.04.01 Video Lottery Technical Standards**

Authority: State Government Article, §§9-1A-02, 9-1A-04, Annotated Code of Maryland

**.18 Video Lottery Terminal Tower Lights and Error Conditions.**

A.—C. (text unchanged)

D. *The tower light of a bar-top style video lottery terminal may be:*

(1) *Shared among a group of video lottery terminals; or*

(2) *Substituted by:*

(a) *A flush-mounted light located on the top panel of the video lottery terminal; or*

(b) *An audible alarm; or*

(c) *Other Commission-approved means of visibly or audibly identifying the operational status of the video lottery terminal.*

[D. When illuminated, the tower light shall indicate the default denomination of the video lottery terminal.

E. Each denomination shall be indicated by a unique color and be consistent across the facility operator's gaming floor.]

[F] E.—[N.] M. (text unchanged)

**.28 Progressive Video Lottery Terminals.**

A.—E. (text unchanged)

F. A progressive controller shall be:

(1) Located in a: [restricted area;]

(a) *Restricted area; or*

(b) *Video lottery terminal; and*

(2)—(3) (text unchanged)

G.—J. (text unchanged)

## **36.05.03 Table Games Procedures**

Authority: State Government Article, §§9-1A-02 and 9-1A-04, Annotated Code of Maryland

**.23 Table Game Payouts.**

A.—D. (text unchanged)

E. A facility operator's internal controls shall include:

(1)—(8) (text unchanged)

(9) Procedures utilized to issue a manual table game payout document which:

[(a) Are to be used only when the video lottery system is unable to generate a table game payout document;]

[(b)] (a)—[(d)] (c) (text unchanged)

[(e)] (d) Require the key to the cabinet in [§E(9)(d)] §E(9)(c) of this regulation to be:

(i.)—(ii.) (text unchanged)

## **36.08.03 Amusement Gaming License**

Authority: Criminal Law Article, §§12-301 and 12-301.1, Annotated Code of Maryland

**.02 Amusement Gaming License.**

A.—C. (text unchanged)

D. An amusement gaming licensee shall register [annually] *every other year* under COMAR 36.08.02 if the licensee owns any skills-based amusement devices that award prizes other than the award of free play.

E.—H. (text unchanged)