

Staff's proposed amendments to the Gaming Regulations:

Amendments to COMAR 36.03.02.01. New §D would codify existing processes that Staff uses to review a video lottery employee licensee's notice that he or she intends to make a "change in employment status" (a newly defined term). Staff determines whether the license is in good standing, and may not approve a change in employment status if the license is not in good standing. COMAR 36.03.02.01., new §D(6), (7). The amendments would also clarify that those licensees separated from employment for more than 6 months shall pay the required fee for conducting a criminal history check. New 36.03.02.02.E would set forth the information a licensee must submit in support of the intended change in employment status. A failure to maintain good standing may be the basis for enforcement action. 36.03.04.03, new §C(5).

Amendments to COMAR 36.03.02.01. New §E would clarify that an applicant or licensee *always* has the burden of proving license qualifications. An Administrative Law Judge recently opined that the regulations as written are unclear as to who has the burden of proving or disproving license qualifications at a hearing; this amendment would echo the Gaming Law, which specifically provides that the applicant or licensee must prove license qualifications.

Amendment to COMAR 36.03.02.01. New §G(3) would 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.

COMAR 36.03.02.06, new §L, Institutional Investors section. This section would clarify that Staff's approval of an "institutional investor," as that term is defined in State Gov't §9-1A-01, would generally be valid for a term of 5 years from the date of last approval.

Amendments to COMAR 36.03.02.12.E would restate and restate and clarify what is already true: 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.

For June 25, 2020 Commission.

Revised June 15, 2020

1
2 **Title 36 MARYLAND STATE LOTTERY AND GAMING CONTROL AGENCY**

3
4 **Subtitle 03 GAMING PROVISIONS**

5
6 **Chapter .01 General**

7
8 **Authority: State Government Article, §§ 9-1A-01, 9-1A-02, and 9-1A-04, Annotated Code**
9 **of Maryland**

10 **.02 Definitions.**

11 A. (text unchanged)

12 B. Terms Defined.

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

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

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

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

21 ~~(1) (2)~~ – ~~(30)~~ **(31)** (text unchanged)

22
23 **Title 36 MARYLAND STATE LOTTERY AND GAMING CONTROL AGENCY**

24
25 **Subtitle 03 GAMING PROVISIONS**

26
27 **Chapter .02 Investigation and Licensing**

28
29 **Authority: State Government Article, §§ 9-1A-02, 9-1A-04, 9-1A-06, 9-1A-07, 9-1A-12 –9-**
30 **1A16, 9-1A-19, and 9-1A-20, Annotated Code of Maryland**

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1 **.01 Process.**

2 A. General Provisions.

3 (1) Upon filing of an application for a license under this chapter, other than an operation
4 license, the applicant shall pay a nonrefundable application fee established by the Commission.

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

9 (3) (text unchanged)

10 B. Applications.

11 (1) Documents submitted to the Commission or the Location Commission under this chapter
12 shall consist of an original and the number of copies required by the relevant commission and
13 shall be in the electronic format required by the relevant commission.

14 (2) Documents and information submitted to the Commission or the Location Commission in
15 a license application shall be sworn before a notary public as to their truth and validity by the
16 applicant or, if the applicant is not an individual, by the chief executive officer of the applicant.

17 (3) Upon receipt of an application by the Commission, the Commission staff shall review the
18 application to determine whether it contains all the information required under this chapter.

19 (4) If the Commission determines that the required information has not been submitted, the
20 Commission staff shall notify the applicant in writing and state the nature of the deficiency.

21 (5) An applicant notified in accordance with §B(4) of this regulation may submit the
22 documents necessary to complete the application not later than 15 days after issuance of the
23 notification.

24 (6) The Commission may not consider the application of an applicant who is notified in
25 accordance with §B(4) of this regulation and who fails to submit the requested documents in a
26 timely manner.

27 (7) The Commission shall consider a timely, complete application.

28 C. Changes in Application.

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1 (1) If information submitted by an applicant as part of a license application changes or
2 becomes inaccurate before the Commission acts on the application, the applicant shall
3 immediately notify the Commission in writing of the change or inaccuracy.

4 (2) After an application has been filed by an applicant, the applicant may not amend the
5 application except:

6 (a) To address a deficiency in accordance with a notice sent under §B(4) of this regulation;

7 (b) As required by the Commission or the Commission staff for clarification of
8 information contained in the application; or

9 (c) To address a change in the circumstances surrounding the application that was outside
10 the control of the applicant and that affects the ability of the applicant to comply with the law or
11 the regulations of the Commission.

12 (3) To amend an application under §C(2)(c) of this regulation, an applicant shall submit to
13 the Commission a written request to amend the application, stating:

14 (a) The change in the circumstances surrounding the application that necessitates the
15 amendment;

16 (b) The nature of the amendment; and

17 (c) The reason why the amendment is necessary to bring the application into compliance
18 with the law or the regulations of the Commission.

19 (4) The Commission or Commission staff shall grant or deny each request submitted under
20 §C(3) of this regulation.

21 (5) A request shall be granted if the applicant demonstrates to the satisfaction of the
22 Commission that:

23 (a) The circumstances requiring the amendment were outside the control of the applicant;

24 (b) Before the change in the circumstances surrounding the application, the application
25 complied with the pertinent provisions of the law or the regulations of the Commission; and

26 (c) The amendment is necessary to bring the application into compliance with the pertinent
27 provisions of the law or the regulations of the Commission.

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1 (6) Except for an application for an operation license, an application for a license may be
2 withdrawn if the:

3 (a) Applicant submits a written request to the Commission to withdraw the application;
4 and

5 (b) Written request is submitted before the Commission has:

6 (i) Denied the application; or

7 (ii) Terminated a temporary license.

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

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

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

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

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

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

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

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

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

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

3 **D. E.** Burden of Proof.

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

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

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

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

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

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

16 (2) Subject to State Government Article, §9-1A-14(c)(8), Annotated Code of Maryland, the
17 Commission may deny a video lottery employee license to an applicant whose past or present
18 conduct would bring the State into disrepute.

19 (3) The Commission may deny a license to an applicant whose gaming license has been
20 suspended or revoked in another jurisdiction.

21 **E. F.** Administrative Costs of Background Investigations.

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

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

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1 (b) Any payments made by the Commission to a person approved by the Commission to
2 conduct the background investigations.

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

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

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

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

12 (1) Wire transfer;

13 (2) Money order;

14 (3) Certified check ~~made payable to the "Maryland Lottery and Gaming Control~~
15 ~~Commission;" ;~~ or

16 (4) Any other manner designated by the Commission.

17 **G. H.** Continuing Obligations.

18 (1) Applicants who are awarded a license shall, during the term of their licensures, conform
19 to all of the information contained in their license applications.

20 (2) If information submitted by an applicant who is issued a license changes during the term
21 of the license, the licensee shall immediately submit written notification of the change to the
22 Commission.

23 (3) In addition to the requirements of this regulation, a holder of an operation license must
24 also comply with the requirements of COMAR 36.03.03.

25 (4) Failure to comply with the obligations of §G(1), (2), or (3) of this regulation shall be
26 grounds for the Commission taking enforcement action against the licensee under COMAR
27 36.03.04.

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2 **.02 Personal and Background Information.**

3 A. Except as otherwise provided by this regulation, the application documents shall include the
4 information under §B of this regulation, for an individual who is:

- 5 (1) The applicant;
- 6 (2) A director, officer, or key management individual employed by the applicant;
- 7 (3) A partner of the applicant;
- 8 (4) An owner of an interest of 5 percent or more in the applicant; or
- 9 (5) A principal.

10 B. An individual listed under §A of this regulation shall furnish the following:

- 11 (1) Full name and any previous names or aliases;
- 12 (2) Date of birth;
- 13 (3) Physical description;
- 14 (4) Home and business addresses and telephone numbers;
- 15 (5) Driver's license number and state of issuance;
- 16 (6) Social Security number;
- 17 (7) Passport or identification photo;
- 18 (8) Fingerprints for a criminal records check:

19 (a) For a State resident, from an electronic fingerprinting service approved by the
20 Commission; or

21 (b) For an out-of-State resident, one FBI and one State fingerprint card, taken within the
22 previous 45 days before submission to the Commission; and

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1 (9) Any other document or information required by the Commission.

2 C. If the applicant is a corporation, the application documents shall state the:

3 (1) State in which the applicant is incorporated; and

4 (2) Name and address of the applicant's agent for service of process in Maryland.

5 D. If an applicant is a nonprofit corporation, only an individual who is a director or officer of
6 the applicant shall provide the information required under §B of this regulation.

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

9 ~~E.F.~~ The Commission may require an applicant to furnish the information listed in §B of this
10 regulation with regard to the applicant's family and associates.

11 ~~F.~~ **G.** Inadvertent, nonsubstantive errors that might be made in furnishing the information
12 required by this regulation may not be used as a reason by the Commission for disqualifying the
13 applicant.

14

15 **.03 Information for Background Investigation.**

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

20 (1) Arrested;

21 (2) Convicted of, pled nolo contendere to, or received probation before judgment for, a
22 felony or misdemeanor, other than a misdemeanor traffic offense;

23 (3) Sanctioned by a government agency related to gaming;

24 (4) Found liable in connection with a civil action related to gaming;

25 (5) A debtor in a bankruptcy proceeding; or

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1 (6) Denied a bond.

2 B. – C. (text unchanged)

3

4 **.04 Consent for Investigation.**

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

8 (1) Verify all information provided in ~~the application documents~~ **all documents or forms**
9 **submitted to the Commission;** and

10 (2) Conduct a background investigation of the individual.

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

16 **.06 Owners.**

17 A. – K. (text unchanged)

18 **L. Principal Entities as Approved Institutional Investors.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 **(a) If an approved institutional investor's ownership interest falls below 5%, the**
19 **institutional investor shall notify the Commission in writing; and**

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

23
24 .12 Video Lottery Employee Licenses.

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

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1 B. License Categories. The Commission may issue a video lottery employee license that is a:

2 (1) Principal employee license;

3 (2) Gaming employee license;

4 (3) Nongaming employee license;

5 (4) Temporary principal employee license; or

6 (5) Temporary gaming employee license.

7 C. Requirements. The Commission may issue a video lottery employee license to an individual
8 who has or has had on their behalf:

9 (1) Paid all required application and license fees;

10 (2) Submitted a completed license application to the Commission;

11 (3) Furnished the personal and background information required under Regulation .02 of this
12 chapter;

13 (4) Provided the documentation required under Regulation .03 of this chapter;

14 (5) Executed the consent for investigation required under Regulation .04 of this chapter;

15 (6) Unless exempt, obtained a bond required under Regulation .15 of this chapter;

16 (7) Received at least a conditional offer of employment as a video lottery employee from a
17 licensed facility operator, manufacturer, or contractor;

18 (8) Demonstrated that within the 365 days before the application is submitted, the applicant
19 has not served as a Commission member or been employed by the Agency;

20 (9) For an applicant for a nongaming employee license, documented that the applicant has
21 obtained an offer of at least conditional employment from a licensed facility operator,
22 manufacturer or contractor, or a registered or certified vendor, and that the employer has:

23 (a) Obtained a bond if required under Regulation .15 of this chapter; and

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1 (b) Performed, at a minimum, a Social Security database check, criminal check,
2 employment verification, and national database search; and

3 (10) Provided the Commission with sufficient information, documentation, and assurances to
4 establish, by clear and convincing evidence, that the individual:

5 (a) Has not been disqualified under State Government Article, §9-1A-14(c), Annotated
6 Code of Maryland;

7 (b) Has met the applicable requirements of State Government Article, §9-1A-07(c),
8 Annotated Code of Maryland; and

9 (c) Is otherwise qualified for a video lottery employee.

10 D. Application and License Fees.

11 (1) For a principal employee, \$5,287.25, of which the:

12 (a) Application fee is \$2,500;

13 (b) License fee is \$750;

14 (c) Refundable advance deposit authorized under Regulation .01E(3) of this chapter for the
15 administrative costs of conducting the applicant's background investigation is \$2,000; and

16 (d) Required fee for conducting a criminal history records check specified in Regulation
17 .03B of this chapter is \$37.25.

18 (2) For a gaming employee, \$437.25, of which the:

19 (a) Application fee is \$250;

20 (b) License fee is \$150; and

21 (c) Required fee for conducting a criminal history records check specified in Regulation
22 .03B of this chapter is \$37.25.

23 (3) For a nongaming employee, \$187.25, of which the:

24 (a) Application fee is \$50;

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1 (b) License fee is \$100; and

2 (c) Required fee for conducting a criminal history records check specified in Regulation
3 .03B of this chapter is \$37.25.

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

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

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

9 F. – I. (text unchanged)

10 **.18 Identification Cards for Video Lottery Employees.**

11 A. – D. (text unchanged)

12 E. Surrender and Reissuance of Identification Card.

13 (1) – (3) (text unchanged)

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

15 ~~(5)~~ **(4)** Nothing in this regulation shall preclude the Commission from taking enforcement
16 action against a licensee based on the circumstances related to the licensee's separation from
17 employment **or information obtained while reviewing a licensee's notification of an intended**
18 **change in employment status.**

19

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

21

22 **Subtitle 03 GAMING PROVISIONS**

23

24 **Chapter .04 Enforcement**

25

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

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1 **.03 Violations.**

2 A licensee may not:

3 A. – B. (text unchanged)

4 C. Fail to:

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

6 (2) Meet a licensing requirement;

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

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

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

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