

STAFF AGENDA MEMORANDUM

TO: Maryland Lottery and Gaming Control Commission

FROM: John A. Martin, Director

DATE: December 7, 2021

SUBJECT: Proposed Amendments to the MOU with OAH

Summary:

State Government Article (“SG”), § 10-205, Annotated Code of Maryland, permits agencies to delegate authority to conduct a contested case hearing under the Administrative Procedure Act to the Office of Administrative Hearings (“OAH”). At its September 14, 2016 meeting, the Commission approved a Memorandum of Agreement (“MOU”) between the Commission and the OAH that permits the Commission to delegate certain contested cases to the OAH. The matters subject to this delegation included various states of hearings pertaining to the Commission’s denial or revocation of licenses for: instant ticket lottery machines for qualified veterans’ organizations; casino operators, manufacturers, contractors and video lottery employees; family entertainment centers in Worcester County; electronic instant bingo; and electronic gaming devices.

At the Commission’s June 28, 2018 meeting, it approved a delegation to the Director, in consultation with the Office of the Attorney General, the authority to delegate to the OAH contested case evidentiary hearings pertaining to the mandatory exclusion list, authorized under SG § 9-1A-24(d) and COMAR 36.03.07, which were not specifically included in the original MOU or delegation approved in September 2016.

The Commission has since approved emergency regulations that allow the Commission, when delegating to OAH the authority to conduct a contested case hearing, the ability to delegate to the OAH authority to issue: proposed or final findings of fact; proposed or final conclusions of law; proposed or final findings of fact and conclusions of law; or a proposed or final order. The Sports Wagering Law also creates new licensees who have the ability to request a Commission hearing similar to gaming licensees.

If the Commission wishes to seek something other than a final decision from OAH, it is necessary to modify the MOU to include the proposed changes. In order to clearly define the agreement between OAH and the Commission, the Office of the Attorney General prepared an amended and restated MOU to memorialize: the various types of decisions the Commission may delegate to OAH to issue; the ability to delegate sports wagering related hearings to OAH; and the previous delegation concerning evidentiary hearings pertaining to a mandatory exclusion list and expands it to include a sports wagering - related mandatory exclusion list.

Commission Action Requested: Request approval of the Amended and Restated Contested Case Hearing Agreement Between the Office of Administrative Hearings and the Maryland Lottery and Gaming Control Commission; delegate to the Director, in consultation with the Office of the Attorney General, the authority to determine which matters should be delegated to OAH and what types of decisions should be sought; and direct the Secretary of the Commission to transmit the Amended and Restated MOU to the OAH for OAH acceptance and approval.

Staff Recommendations: Staff recommends approval.