

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

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4                                   **Subtitle 03 GAMING PROVISIONS**

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6                                   **Chapter .03 Video Lottery Operation License**  
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8       **Authority:** State Government Article, §§ 9-1A-04(d); 9-1A-07(c)(7); 9-1A-08(d); 9-  
9                                   1A-19(b); 9-1A-24(f); 9-1A-36(o), Annotated Code of Maryland

10   **.01 General.**

11   A. This chapter articulates the standards which the Commission shall use to qualify an  
12   applicant for a video lottery facility operation license.

13   B. After being awarded an operation license by the Location Commission, a facility  
14   operation license holder shall maintain compliance with State Government Article, Title  
15   9, Subtitle 1A, Annotated Code of Maryland, and this subtitle.

16   **.02 Definitions.**

17   A. In addition to the terms defined in COMAR 36.03, which have the same meanings in  
18   this subtitle, the following term has the meaning indicated.

19   B. Term Defined. "Application" means a written request for an operation license, and  
20   includes a proposal submitted to the Location Commission in response to a solicitation  
21   from that Commission.

22   **.03 Application.**

23   A. An applicant for an operation license shall submit an application in the form and  
24   format established by the Location Commission.

25   B. The Commission shall receive an application for an operation license from the  
26   Location Commission.

27   C. The Commission shall review an application to determine whether the applicant is  
28   qualified to hold an operation license.

29   D. Upon making a determination as to an applicant's qualifications to hold an operation  
30   license, the Commission shall notify the Location Commission.

1 **.04 Qualification by the Commission.**

2 A. In determining the qualifications of an applicant for an operation license, the  
3 Commission shall consider the information submitted by the applicant in response to the  
4 Location Commission's solicitation.

5 B. An applicant for an operation license shall present in its application sufficient  
6 information, documentation, and assurances to establish the following qualification  
7 criteria by clear and convincing evidence:

8 (1) The applicant's financial stability, integrity, and responsibility;

9 (2) The integrity of any financial backers, investors, mortgagees, bondholders,  
10 and holders of other evidences of indebtedness that bears a relation to the  
11 application;

12 (3) The applicant's good character, honesty, and integrity;

13 (4) Sufficient business ability and experience of the applicant; and

14 (5) The viability and appropriateness of the applicant's labor practices.

15 C. The Commission shall disqualify an applicant for an operation license on the basis of  
16 any of the following criteria:

17 (1) Failure of the applicant to prove by clear and convincing evidence that the  
18 applicant and each person who owns or controls the applicant are qualified;

19 (2) Failure of the applicant or any person required to be qualified as a condition of  
20 a license to provide information, documentation, and assurances required by or  
21 requested by the Commission or the Location Commission;

22 (3) Failure of the applicant or any person required to be qualified as a condition of  
23 a license to reveal any fact material to qualification;

24 (4) Supplying, by the applicant or any person required to be qualified as a  
25 condition of a license, information that is untrue or misleading as to a material  
26 fact concerning the qualification criteria;

27 (5) Conviction of the applicant, or of any person required to be qualified as a  
28 condition of a license, of an offense under the laws of the United States, or any  
29 jurisdiction within the United States, that is a criminal offense involving moral  
30 turpitude or a gambling offense;

31 (6) Current prosecution of the applicant, or a person who is required to be  
32 qualified as a condition of a license, for an offense described under §C(5) of this

1 regulation, provided that, at the request of the applicant, the Commission may  
2 defer its decision on the application during the pendency of the charge;

3 (7) Pursuit by the applicant, or a person who is required to be qualified as a  
4 condition of a license, of economic gain in an occupational manner or context that  
5 is in violation of the laws of the State, if the pursuit creates a reasonable belief  
6 that participation of the applicant in video lottery operations would be inimical to  
7 the policies of State law and this chapter;

8 (8) Identification of the applicant, or a person who is required to be qualified as a  
9 condition of a license, as a career offender, a member of a career offender cartel,  
10 or an associate of a career offender or career offender cartel, in a manner that  
11 creates a reasonable belief that the association is of a nature as to be inimical to  
12 the policies of State law and this chapter;

13 (9) The committing of an act by the applicant, or a person who is required to be  
14 qualified as a condition of a license, that would constitute an offense described  
15 under §C(5) of this regulation, even if the act has not been or may not be  
16 prosecuted under the criminal laws of the State; *or*

17 (10) Willful defiance by the applicant, or a person who is required to be qualified  
18 as a condition of a license, of a legislative investigatory body or other official  
19 investigatory body of the United States, or a jurisdiction within the United States,  
20 when the body is engaged in the investigation of crimes relating to gambling,  
21 official corruption, or organized crime activity.

22 D. If the Commission identifies potential problems in the information submitted by the  
23 applicant with regard to a subject area that is not relevant to §B or C of this regulation,  
24 the Commission shall notify the Location Commission of these potential problems.

25 E. The Commission shall notify the Location Commission upon making a determination  
26 that an applicant is or is not qualified to hold an operation license.

27 F. Interpretation of § C(9) of this regulation:

28  
29 (1) Act Committed in the State.

30  
31 (a) An act that was committed in the State by an applicant or a person  
32 who is required to be qualified shall disqualify the applicant or person if  
33 the act would constitute a criminal offense involving moral turpitude or a  
34 gambling offense under the criminal laws of the State, and the act:

35  
36 (i) Was not prosecuted under the criminal laws of the State; or

37  
38 (ii) Cannot be prosecuted under the criminal laws of the State.

(b) If an act described in § F(1)(a) of this regulation was prosecuted but did not result in a conviction, it may be considered by the Commission in determining whether the applicant or person has established the required qualification criteria.

(2) Act Committed in Another Jurisdiction.

(a) Except for an act described in § F(1) of this regulation, an act that was committed by an applicant or a person who is required to be qualified shall disqualify the applicant or person if the act occurred within ten years before the date of the application and would constitute a criminal offense involving moral turpitude or a gambling offense under the criminal laws of any jurisdiction, and the act:

(i) Was not prosecuted under the criminal laws of any jurisdiction; or

(ii) The act cannot be prosecuted under the criminal laws of any jurisdiction.

(b) If an act described in § F(2)(a) of this regulation was prosecuted but did not result in a conviction, it may be considered by the Commission in determining whether the applicant or person has established the required qualification criteria.

(3) The Commission must determine the existence of an act described in § F of this regulation by a preponderance of the evidence.

**.05 Issuance of License.**

The Commission shall issue an operation license to the applicant selected for award by the Location Commission.

**.06 Continuing Obligations.**

A. Upon issuance of an operation license, a license holder shall exercise all diligence in fulfilling the specific requirements set out in the Location Commission's request for proposals and the specific details in its license application, including all of the details in the final proposal the license holder submitted to and approved by the Location Commission.

B. As required under State Government Article, § 9-1A-19(b), Annotated Code of Maryland, an operation licensee may not sell or otherwise transfer more than 5% of the legal or beneficial interests of the licensee unless the Commission approves the transfer in advance.

1 C. Failure to comply with the specific details referred to in §A or B of this regulation  
2 shall be grounds for the Commission invoking against the licensee the sanctions  
3 described in COMAR 36.03.06.

4 **.07 Automated Teller Machines.**

5 A. Placement; limitations.

6 (1) Subject to surveillance requirements in COMAR 36.03.10.11, a facility  
7 operator may place automated teller machines on the gaming floor within the  
8 facility.

9 (2) Gaming floor. The proximity of an automated teller machine to a video  
10 lottery terminal or table game that is on a gaming floor is subject to the following  
11 limitations:

12 (a) An automated teller machine may be placed no closer than 10 feet to a  
13 video lottery terminal or table game; and

14 (b) There may be no more than one automated teller machine for every  
15 125 video lottery terminals and table game seats.

16 B. Withdrawal limits. The maximum amount that a player may withdraw from an  
17 account by using an automated teller machine within a gaming day shall be:

18 (1) No more than \$250 per transaction; and

19 (2) No more than \$1,000.

20 C. Negotiable instruments prohibited.

21 (1) In this regulation, “negotiable instruments” means an electronic benefit card,  
22 debit card or similar instrument issued by the Department of Human Resources  
23 for the purpose of accessing temporary cash assistance.

24 (2) An automated teller machine may not accept a negotiable instrument.

25 **.08 Predatory Marketing.**

26 A. In this regulation, the following term has the meaning indicated.

27 B. “Predatory marketing practice.”

28 (1) “Predatory marketing practice” means an advertisement or promotion of an  
29 activity, product or service related to play of a video lottery terminal or table  
30 game that is:

1 (a) False or deceptive;

2 (b) Illegal; or

3 (c) Knowingly directed to an individual:

4 (i) Who is under the age of 21 years;

5 (ii) Whose name is included on the voluntary exclusion list  
6 maintained by the Commission under COMAR 36.01.04.04;

7 (iii) Whose name is included on the mandatory exclusion list  
8 maintained by the Commission under COMAR 36.03.05.03; or

9 (iv) Who is otherwise prohibited by law or court order from being  
10 on the premises of any video lottery operation licensed by the  
11 State.

12 (2) "Predatory marketing practice" includes an advertisement or promotion of an  
13 activity, product or service related to play of a video lottery terminal or table  
14 game that:

15 (a) Uses or depicts an individual who is, or appears to be, under the age of  
16 21 years;

17 (b) By font, color, placement or any other means:

18 (i) Obscures or fails to disclose any material condition or limiting  
19 factor associated with the activity, product or service that is being  
20 marketed; or

21 (ii) Obscures the gambling assistance message required under  
22 COMAR 36.03.06.

23 B. A facility operator may not:

24  
25 (1) Engage in a predatory marketing practice; or

26  
27 (2) Contract with another person to engage in a predatory marketing practice.  
28

29 **.09 Noninterference.**  
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31 A. Interference. Unless allowed by the First Amendment of the Constitution of the  
32 United States, a licensee may not knowingly, directly or indirectly, interfere with, hinder,  
33 obstruct, impede, or take any action to delay the implementation or establishment of a  
34 video lottery facility.

1  
2 B. Prohibition. The restrictions specified in § A of this regulation shall:  
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4 (1) Prohibit, as unlawful indirect conduct, activity:  
5

6 (a) By an entity in which the licensee owns a beneficial or proprietary  
7 interest; or  
8

9 (b) By an entity in which an affiliate of the licensee owns a beneficial or  
10 propriety interest; and  
11

12 (2) Be deemed to prohibit as unlawful, activity:  
13

14 (a) By an entity in which the licensee owns a beneficial or proprietary  
15 interest; or  
16

17 (b) By an entity in which an affiliate of the licensee owns a beneficial or  
18 propriety interest.  
19

20 C. Civil Penalty or Sanction. A knowing violation of § A of this regulation may be used  
21 by the Commission to take enforcement action under COMAR 36.03.04.