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

**Subtitle 01 GENERAL PROVISIONS**

**Chapter 01 General**

**Authority: State Government Article, §§9-101—9-111, 9-116, 9-123, 9-1A-01, 9-1A-02, 9-1A-04, and 9-1A-24, Annotated Code of Maryland**

### .01 Definitions.

A. In this title, the following terms have the meanings indicated.

B. Terms Defined.

(1) “Agency” means the State Lottery and Gaming Control Agency and, unless the context dictates otherwise, includes the Director and Commission.

(2) “Commission” means the State Lottery and Gaming Control Commission and, unless the context dictates otherwise, may include staff of the Agency.

(3) “County” means any county in the State of Maryland and the City of Baltimore.

(4) “Director” means the Director of the Agency and includes the Director’s designees.

(5) “Final action on a license denial” means:

(a) If, after the Director sends written notice of license denial or recommendation of license denial, an applicant fails to timely request a reconsideration meeting, the date of the written notice of the Director’s written notice;

(b) If, after a reconsideration meeting, an applicant fails to timely request a Commission hearing, the date of the Director’s written notice after the reconsideration meeting; or

(c) If the Commission holds **or delegates** a hearing on an appeal of the Director’s license denial or reconsideration of license denial, the date of the Commission’s **or the Office of Administrative Hearing’s** written decision.

(6) “Final action on a sanction” means:

(a) If after the Director sends a deficiency notice under COMAR 36.02.02, 36.03.~~05~~ **04**, 36.06.05, ~~or~~ 36.07.02, **or 36.03.03,** a licensee fails to submit a timely, acceptable corrective action plan, and the Commission adopts as final the Director’s deficiency notice; or

(b) If the Commission holds a hearing on the Director’s recommendation to impose a sanction, the date of the Commission’s written decision.

(7) **Gaming activity.**

**(a) “Gaming activity” means play of a game or machine that is regulated by the Agency.**

**(b) “Gaming activity” does not include activities as provided in COMAR 36.06 —36.09.**

**(8)** “Gaming law” means State Government Article, Title 9, Subtitle 1A, Annotated Code of Maryland.

~~(8)~~ **(9)** “Lottery”, “Maryland Lottery”, or “State Lottery” means the Agency.

~~(9)~~ **(10)** “Lottery law” means State Government Article, Title 9, Subtitle 1, Annotated Code of Maryland.

**(11) “Player” means a person who participates in lottery or gaming activity.**

~~(10)~~ **(12)** ~~“Person” means:~~ **Person.**

~~(a) An individual, association, corporation, club, trust, estate, society, company, joint stock company, receiver, trustee, assignee, assignor, referee, or any person acting in a fiduciary~~**~~,~~** ~~or~~ **~~a~~** ~~representative capacity, whether appointed by a court or otherwise, and any combination of individuals; and~~

~~(b) Department, commission, agency, unit, or instrumentality of a governmental entity.~~

**(a) “Person” has the meaning stated in State Government Article § 1-101, Annotated Code of Maryland.**

**(b) “Person” within COMAR 36.02, may include a group of two or more individuals that are playing or claiming together.**

~~(11)~~ **(13)**“Prize” means:

(a) A monetary award;

(b) Merchandise; or

(c) An experiential award, such as:

(i) A trip; or

(ii) An outing; or

(iii) A designated activity involving personal participation.

~~(12)~~ **(14)**“Retailer” or “Lottery retailer” means a business or person who has been licensed by the Agency to sell lottery tickets.

~~(13)~~ **(15)**"Submit" means to deliver a document:

(a) In a manner that ensures its receipt by the party to whom it is addressed; and

(b) Which is considered complete only upon actual receipt by that party.

**(16) “State obligation” means moneys owed pursuant to:**

**(a) Criminal Procedure Article, §11-616(b) or 11-618, Annotated Code of Maryland;**

**(b) Family Law Article, § 10-113.1(a), Annotated Code of Maryland; or**

**(c) State Finance and Procurement Article, §3-307, Annotated Code of Maryland.**

~~(14)~~ **(17)** “Table games” means:

(a) Roulette, baccarat, blackjack, craps, big six wheel, ~~minibaccarat,~~ poker, pai gow ~~poker,~~ and sic bo **shakers, pai gow tiles**, ~~or~~ any variation and composites of such games**, and other games that the Commission has approved for play in a video lottery facility**; and

(b) Gaming tournaments in which players compete against one another in one or more of the games authorized under §B~~(14)~~**(17)**(a) of this regulation.

~~(15)~~ **(18)** “Ticket” or “lottery ticket” means a ticket ~~sold by~~ **that** a lottery retailer **or the Agency makes available for sale.** ~~to the general public.~~

~~(16)~~ **(19)** “Video lottery” means gaming or betting conducted using a video lottery terminal.

~~(17)~~ **(20)** “Video lottery facility” means a facility at which players play video lottery terminals and table games.

~~(18)~~ **(21)** Video Lottery Terminal.

(a) “Video lottery terminal” means any machine or other device that:

(i) On insertion of a bill, coin, token, voucher, ticket, coupon, or similar item, or on payment of any consideration is available to play or simulate the play of any game of chance in which the results, including the options available to the player, are randomly determined by the machine or other device; and

(ii) By the element of chance, may deliver or entitle the player who operates the machine or device to receive cash, premiums, merchandise, tokens, or anything of value, whether the payout is made automatically from the device or in any other manner.

(b) “Video lottery terminal” includes a machine or device that:

(i) Does not directly dispense money, tokens, or anything of value to winning players; and

(ii) Uses an electronic credit system making the deposit of bills, coins, or tokens unnecessary.

(c) “Video Lottery terminal” means each single position or seat available for use by a player;

(d) “Video lottery terminal” does not include an authorized electronic gaming device operated by an eligible organization under Criminal Law Article, Title 12, Subtitle 3, Annotated Code of Maryland.

~~(19)~~**(22)** “Voluntary exclusion program” means the Voluntary Exclusion Program established under COMAR 36.01.03.

~~(20)~~ **(23)** “Work day” means when Maryland State government offices are open for business.

### .02 Rules of Construction.

A. Gender and Number. In interpreting and applying this title, the following rules of construction shall apply:

(1) Words denoting one gender include and apply to the other gender as well; and

(2) The singular includes the plural and vice versa.

B. Time Computations.

(1) Computation of time after an act, event, or default applies the following rules:

(a) In computing any period of time prescribed by this title, the day of the act, event, or default after which the designated period of time begins to run is not included;

(b) If the period of time allowed is more than 7 days, intermediate Saturdays, Sundays, and legal holidays are counted;

(c) If the period of time allowed is 7 days or less, intermediate Saturdays, Sundays, and legal holidays are not counted; and

(d) The last day of the period so computed is included unless it is a Saturday, Sunday, or legal holiday, in which event the period runs until the end of the next day that is a work day.

(2) Computation of time before a day, act, or event applies the following rules:

(a) In determining the latest day for performing an act that is required by this title to be performed a prescribed number of days before a certain day, act, or event, all days preceding that day, including intervening Saturdays, Sundays, and legal holidays, are counted in the number of days so prescribed; and

(b) The latest day is included in the determination unless it is a Saturday, Sunday, or legal holiday, in which event the latest day is the first preceding day that is a work day.

### .03 Lottery and Gaming Control Commission.

~~A. Definitions.~~

~~(1) In this regulation the following terms have the meanings indicated.~~

~~(2) Terms Defined.~~

~~(a) “Gaming activities” means, for purposes of this chapter, any activity lawfully carried out under the gaming law.~~

~~(b) “Quorum” means a majority of the full authorized membership of the Commission.~~

~~B.~~ **A.** Overview of Commission.

(1) The Commission is included in the Agency.

(2) The Commission may advise the Director on the administration and operation of the Agency in accordance with the lottery law.

(3) With the assistance of the Agency, the Commission shall regulate the operation of video lottery terminals and table games in accordance with the gaming law.

~~C.~~ **B.** Operational Procedures.

(1) Meetings.

(a) The Commission shall:

(i) Determine the times and places of its meetings;

(ii) Set its procedures for frequency, notice, and conduct of meetings; and

(iii) Annually elect a chair from among its members.

(b) The Commission may annually elect a vice chair from among its members.

(c) ~~No action shall be considered an act of the~~ **The** Commission **may not act** unless at least four ~~of its~~ members concur.

(2) Minutes.

(a) The Director is the Secretary of the Commission.

(b) The Secretary of the Commission ~~promptly shall send the Governor a certified copy of the minutes of each meeting of the Commission~~ **shall, as soon as practicable after the Commission meets, prepare minutes of the meeting and make them available to the public as required under § 3-306 of the General Provisions Article, Annotated Code of Maryland** .

~~(c) The minutes shall include a copy of each regulation of the Agency that is adopted by the Commission.~~

~~D.~~ **C.** Powers of Commission.

(1) The Commission may:

(a) Issue subpoenas to compel attendance of witnesses at any place within the State in the course of any investigation or hearing conducted under the gaming law;

(b) Administer oaths and require testimony under oath before the Commission in the course of any investigation or hearing conducted under the gaming law and lottery law;

(c) Serve or cause to be served its process or notices in a manner provided for service of process in civil actions under the Maryland Rules; and

(d) Propound written interrogatories.

~~(2) The Commission shall satisfy all regulatory authorities, responsibilities, and processes as designated by law and this title.~~

### .04 Lottery and Gaming Control Director.

A. General Duties. The Director shall:

(1) Supervise and administer the operation of the Agency ~~in accordance with the lottery law~~;

(2) Provide assistance to the Commission in the performance of its duties ~~under the provisions of the lottery law and gaming law~~; and

(3) Advise the Commission about any changes needed to improve the operation or administration of the Agency.

B. Powers of Director.

~~(1) The Director shall authorize the Agency to sell lottery tickets for purposes consistent with the lottery law.~~

~~(2) The Director may authorize the Agency to sell lottery tickets for a temporary period at any promotional or special event being held in the State if:~~

~~(a) In the Director's determination, a licensed retailer is not available to conduct the sale; and~~

~~(b) The person holding the promotional or special event has authorized the Agency to sell Lottery tickets at the event.~~

~~(3) With the approval of the Commission in compliance with the lottery law and State Finance and Procurement Article, Division II, Annotated Code of Maryland, the Director may enter into contracts for the:~~

~~(a) Operation of all or any part of the lottery; and~~

~~(b) Use of space, for advertising or promotional purposes, on tickets or publications distributed by the Agency, if, in the Director's discretion, the action is fiscally prudent and in the best interest of the lottery.~~

~~(4) With the approval of the Commission, the Director may:~~

~~(a) Contract for the promotion of the lottery; and~~

~~(b) Enter into private sector cooperative marketing project agreements as provided for in State Finance and Procurement Article, §11-203, Annotated Code of Maryland.~~

~~(5) With the approval of the Commission and the Legislative Policy Committee, the Director may enter into agreements to operate multijurisdictional lotteries with:~~

~~(a) Any other political entity outside of the State or outside the United States that operates a lottery; or~~

~~(b) A private licensee of a state or foreign nation.~~

**(1) The Director has all those powers conferred under State Government Article, Title 9, Subtitle 1, Annotated Code of Maryland.**

~~(6)~~ **(2)** The Director may:

(a) Make determinations on all issues relating to the Agency and all of the Agency’s games, promotions, and special activities;

(b) Determine that a game ticket is void and if the game ticket shall be paid; and

(c) Establish and announce special purchase options which reduce the purchase price of a game for a specified period.

~~(7)~~ **(3)** The Director may determine, and change:

(a) The number of prize categories;

(b) The allocation of prize money among prizes;

(c) The price of games;

(d) The probability or odds of winning a game; and

(e) Any other aspect of game play, payment, and implementation.

~~(8)~~ **(4)** The Director may:

(a) Authorize the Agency to substitute a prize of equivalent value or higher for a prize; and

(b) Approve a winner’s request to receive a cash equivalent value or other substitute prize for a merchandise or experiential prize.

~~(9)~~ **(5)** The Director may determine that a type of ticket shall be cancelled, including an instant ticket, a multi-jurisdictional ticket, and ~~an~~ ~~online~~ **a draw game** ticket.

~~(10)~~ **(6)** The Director may disqualify a game ticket ~~upon~~ **if** a ~~player’s~~ ~~breach of~~ **player****violates** an Agency law or regulation.

~~(11) Delegation of Authority.~~

~~(a)~~ **(7)** The Director may delegate to another individual the performance of any activity, function, or ~~services~~ **service** in connection with the operation of the Lottery.

~~(b) The delegated activity, function, or service shall constitute a lawful activity, function, or service of the Agency.~~

### .05 Limitations on ~~Lottery and Gaming Play~~ Gaming Activity.

~~A.~~ ~~A lottery ticket may not be purchased~~ **Gaming activity may not be engaged in** by, and a prize **or jackpot** may not be paid to:

~~(1)~~ **A.** A Commission member;

~~(2)~~ **B.** An officer or an employee of the Agency; or

~~(3)~~ **C.** An individual who lives in the same principal residence as a Commission member or an officer or employee of the Agency and is the officer’s, member’s or employee’s:

~~(a)~~ **(1)** Spouse or domestic partner;

~~(b)~~ **(2)** Child;

~~(c)~~ **(3)** Sibling; or

~~(d)~~ **(4)** Parent or parent-in-law; or

~~(4)~~ **D.** A person whose name appears on ~~the~~ **a** Voluntary Exclusion Program list ~~for exclusion from lottery play~~ **under COMAR 36.01.03**.

**E. The Agency shall conduct periodic reviews to ensure compliance with this Regulation.**

~~B. A video lottery terminal or table game licensed by the Commission may not be played, and a jackpot or complimentary service, as those terms are defined in COMAR 36.03, may not be accepted, by:~~

~~(1) A Commission member;~~

~~(2) An employee of the Agency;~~

~~(3) An individual who lives in the same principal residence as a Commission member or an employee of the Agency and is the member’s or employee’s:~~

~~(a) Spouse or domestic partner;~~

~~(b) Child;~~

~~(c) Sibling; or~~

~~(d) Parent or parent-in-law; or~~

~~(4) A person whose name appears on the Voluntary Exclusion Program list for exclusion from lottery or gaming activities play.~~

### .06 Code of Conduct.

A. Definitions.

(1) In this regulation, the following terms have the meanings indicated.

(2) Terms Defined.

(a) "Agency employee" means an employee of the Agency who is designated as a public official under State Government Article, §15-103, Annotated Code of Maryland.

(b) "Complaint" means **the submission of** a communication to the Agency or the Commission **alleging** ~~of a possible~~ **a** violation of ~~this subtitle~~ **a law, regulation, or the code of conduct established by the Director**.

(c) "Conflict of interest" means a situation in which a personal interest of a Commission member or an Agency employee ~~presents a potential conflict with~~ **may be contrary to** the public interest in ~~connection with~~ an anticipated ~~public~~ **Commission** action or decision.

(d) "Ex parte communication" means a direct or indirect communication between a Commission member or Agency employee and another ~~party~~ **person** regarding ~~the merits of~~ an issue in a **matter that is** pending ~~matter~~ **before the Commission**, if the communication is made outside the presence of ~~the~~ **an** opposing ~~party~~ **person**.

(e) "Recusal" means nonparticipation of a Commission member in a specific matter before the Commission.

B. **Establishment and Compliance.**

**(1)** The Director shall establish a code of conduct for members of the Commission and ~~employees of the~~ Agency **employees**.

**(2) Members of the Commission and Agency employees shall comply with the code of conduct.**

C. Recusal of Commission Members.

(1) A Commission member ~~shall~~ ~~recuse~~ ~~himself from~~ **may not participate in a** Commission ~~proceedings~~ **proceeding** in matters in which the member:

(a) Has a conflict of interest; or

(b) Cannot participate fairly and impartially.

(2) **A Commission member’s** ~~Personal~~ familiarity with a ~~party~~ **person** does not, of itself, require recusal of ~~a~~ **the** Commission member.

~~(3) A Commission member may seek advice of the Commission's counsel in determining the need for recusal on a specific matter.~~

~~(4)~~ **(3)** ~~The~~ **A** Commission member who is recused from a matter before the Commission may not:

(a) Participate in the Commission's discussion or vote on the matter; or

(b) Discuss the matter or the Commission's review of the matter with members of the Commission or **an**other ~~individuals~~ **person**.

~~(5)~~ **(4)** ~~The~~ **A** Commission member who is recused shall physically leave the room during hearings, discussion, or voting on the matter to ensure nonparticipation.

~~(6)~~ **(5)** The Commission shall document the recusal of the Commission member in the minutes of the Commission meeting **from which the member was recused**.

**D. Complaints.**

~~(7)~~ **(1)** A Commission member against whom a complaint is filed shall follow §C~~(4)~~ **(3)** and ~~(5)~~ **(4)** of this regulation for ~~all~~ **Commission** discussion and voting ~~concerning~~  **related to** the complaint ~~filed against the Commission member~~.

(8) ~~If the Commission determines that there is an additional matter before the Commission which is reasonably related to the complaint filed against the Commission member, the Commission member against whom the complaint is filed shall follow this section for the additional matter.~~

~~(9)~~ **(2) Upon receipt of a complaint, the Commission may:**

**(a) Direct the Agency to investigate; or**

**(b) Refer the complaint to appropriate unit of State government.** ~~If, after investigation of the complaint, the Commission refers the case to the Attorney General's Office, the Commission member shall recuse himself or herself from all Commission activities until the final disposition of the case.~~

**(3) An Agency employee who has a conflict of interest pertaining to the Commission member who is the subject of the complaint may not participate in an investigation of the complaint.**

**(4) The Commission member who is the subject of the complaint may not participate in any Commission activity until the complaint is resolved.**

~~D. Agency Employee.~~

~~(1) An Agency employee may not conduct or participate in an investigation in which the Agency employee has a conflict of interest.~~

~~(2) In the investigation of a complaint against a member of the Commission, the Commission may consider using an investigator other than the investigator who is regularly assigned to conduct investigations for the Commission.~~

E. Confidentiality.

(1) A Commission member or Agency employee may not discuss confidential matters with a person other than:

(a) A Commission member;

(b) An Agency employee;

(c) The Attorney General's Office;

(d) A witness; or

(e) Another person authorized by law to be involved in the case.

(2) In the case of an ex parte communication, the Commission member shall follow the provisions of State Government Article, §10-219, Annotated Code of Maryland.