

*Maryland Lottery and Gaming Control Commission*

**STAFF AGENDA MEMORANDUM**

**DATE OF MEETING:** June 26, 2014

**AGENDA ITEM:** **Regulation – Gaming Provisions – Video Lottery Operations License – Qualification by the Commission Regulation 36.03.03.04**

**PRESENTER:** J. Philip Metz, Jr., VLT Licensing Manager

**ISSUE SUMMARY:** The proposed amendments to §F would make this regulation consistent with COMAR 36.03.02.12 – video lottery *employee* licenses, which the Commission amended at the April 21, 2014 meeting by establishing a 7-year “look-back” limit on an applicant’s non-convicted acts of moral turpitude, regardless of where the applicant committed the acts. At the April 21 meeting, the Commission also directed Staff to prepare amendments to COMAR 36.03.03.04F to establish the same look-back limitation for applicants for a video lottery *operation* license, which contains a 10-year look-back limit that currently applies only to the commission of out-of-state acts of moral turpitude or gambling.

**COMMISSION ACTION REQUIRED/REQUESTED:** Commission approval upon review and discussion.

**STAFF RECOMMENDATIONS:** Staff recommends approval

1 Title 36 STATE LOTTERY AND  
2 GAMING CONTROL AGENCY

3  
4 Subtitle 03 GAMING PROVISIONS

5 Chapter .03 Video Lottery Operation License

6 Authority: State Government Article, § 9-1A-08, Annotated Code of Maryland

7  
8 .04 Qualification by the Commission

9  
10 (A. – B. text unchanged)

11  
12 C. The Commission shall disqualify an applicant for an operation license on the basis of  
13 any of the following criteria:

14  
15 (1) Failure of the applicant to prove by clear and convincing evidence that the  
16 applicant and each person who owns or controls the applicant are qualified;

17  
18 (2) Failure of the applicant or any person required to be qualified as a condition of  
19 a license to provide information, documentation, and assurances required by or  
20 requested by the Commission or the Location Commission;

21  
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  
25 (4) Supplying, by the applicant or any person required to be qualified as a  
26 condition of a license, information that is untrue or misleading as to a material  
27 fact concerning the qualification criteria;

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

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1  
2 (6) Current prosecution of the applicant, or a person who is required to be  
3 qualified as a condition of a license, for an offense described under §C(5) of this  
4 regulation, provided that, at the request of the applicant, the Commission may  
5 defer its decision on the application during the pendency of the charge;  
6

7 (7) Pursuit by the applicant, or a person who is required to be qualified as a  
8 condition of a license, of economic gain in an occupational manner or context that  
9 is in violation of the laws of the State, if the pursuit creates a reasonable belief  
10 that participation of the applicant in video lottery operations would be inimical to  
11 the policies of State law and this chapter;  
12

13 (8) Identification of the applicant, or a person who is required to be qualified as a  
14 condition of a license, as a career offender, a member of a career offender cartel,  
15 or an associate of a career offender or career offender cartel, in a manner that  
16 creates a reasonable belief that the association is of a nature as to be inimical to  
17 the policies of State law and this chapter;  
18

19 (9) The committing of an act by the applicant, or a person who is required to be  
20 qualified as a condition of a license, that would constitute an offense described  
21 under §C(5) of this regulation, even if the act has not been or may not be  
22 prosecuted under the criminal laws of the State; or  
23

24 (10) Willful defiance by the applicant, or a person who is required to be qualified  
25 as a condition of a license, of a legislative investigatory body or other official  
26 investigatory body of the United States, or a jurisdiction within the United States,  
27 when the body is engaged in the investigation of crimes relating to gambling,  
28 official corruption, or organized crime activity.  
29

30 D. If the Commission identifies potential problems in the information submitted by the  
31 applicant with regard to a subject area that is not relevant to §B or C of this regulation,  
32 the Commission shall notify the Location Commission of these potential problems.  
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1 E. The Commission shall notify the Location Commission upon making a determination that  
2 an applicant is or is not qualified to hold an operation license.  
3

4 F. Interpretation of §C(9) of this Regulation.  
5

6 (1) ~~Act Committed in the State.~~

7 (a) An act that was committed in the State any jurisdiction by an applicant or a  
8 person who is required to be qualified shall disqualify the applicant or person if  
9 the act occurred within 7 years before the date of the application and would  
10 constitute a criminal offense involving moral turpitude or a gambling offense  
11 under the criminal laws of the State any jurisdiction, and the act:  
12

13 (i) Was not prosecuted under the criminal laws of ~~the State~~ any  
14 jurisdiction; or

15  
16 (ii) Cannot be prosecuted under the criminal laws of ~~the State~~ any  
17 jurisdiction.  
18

19 (b) ~~(2)~~ If an act described in §F(1)(a) of this regulation was prosecuted but did not result  
20 in a conviction, it may be considered by the Commission in determining whether the  
21 applicant or person has established the required qualification criteria.  
22

23 (2) ~~Act Committed in Another Jurisdiction.~~

24 (a) ~~Except for an act described in §F(1) of this regulation, an act that was~~  
25 ~~committed by an applicant or a person who is required to be qualified shall~~  
26 ~~disqualify the applicant or person if the act occurred within 10 years before the~~  
27 ~~date of the application and would constitute a criminal offense involving moral~~  
28 ~~turpitude or a gambling offense under the criminal laws of any jurisdiction, and~~  
29 ~~the act:~~  
30

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

32  
33 (ii) ~~Cannot be prosecuted under the criminal laws of any jurisdiction.~~  
34

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1 (b) If an act described in §F(2)(a) of this regulation was prosecuted but did not  
2 result in a conviction, it may be considered by the Commission in determining  
3 whether the applicant or person has established the required qualification criteria.  
4

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