

TITLE 70: DEPARTMENT OF FINANCE

SUBCHAPTER 70-50.2 VIDEO LOTTERY REGULATIONS

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Subchapter Authority: 1 CMC §§ 9301-9323; Executive Order 94-3 § 307(a).

Subchapter History: Adopted 36 Com. Reg. 35899 (Dec. 28, 2014); Proposed 36 Com. Reg. 35823 (Nov. 3, 2014).

Commission Comment: PL 3-60 (effective June 3, 1983), codified at 1 CMC §§ 9301-9323, created the CNMI Lottery Commission to supervise, organize and operate a public lottery in the Commonwealth. See 1 CMC §§ 9301 and 9305. 1 CMC § 9306 directs the Commonwealth Lottery Commission to promulgate regulations governing the administration of the lottery in accordance with the act.

Executive Order 94-3 (effective August 23, 1994) reorganized the Commonwealth government executive branch, changed agency names and official titles and effected numerous other revisions. According to Executive Order 94-3 § 307(a):

Section 307. Department of Finance.

(a) Lottery Commission. The Commonwealth Lottery Commission is abolished and its functions transferred to the Department of Finance. The Secretary of Finance shall consult with the Secretary of Commerce and the Attorney General as necessary for the effective administration of such functions.

The full text of Executive Order 94-3 is set forth in the commission comment to 1 CMC § 2001.

Section 5 of PL 18-20 (effective Oct. 7, 2013) repealed § 307(a) of Executive Order 94-3, reestablishing the Commonwealth Lottery Commission.

The Commission created and titled the parts of this subchapter.

Part 001 - General

§ 70-50.2-001 Rule Making Authority

The rules and regulations set forth in this subchapter, and from time to time amended, are promulgated pursuant to the authority and directions set forth in the Commonwealth of the Northern Mariana Islands (“Commonwealth”) Code including, but not limited to, 1 CMC §§ 9305, 9306, 9313 and the Commonwealth Administrative Procedure Act, 1 CMC §§ 9101, et seq.

Modified, 1 CMC § 3806(g).

History: Adopted 36 Com. Reg. 35899 (Dec. 28, 2014); Proposed 36 Com. Reg. 35823 (Nov. 3, 2014).

Commission Comment: The Commission corrected the citation to 1 CMC §§ 9101, et seq. pursuant to 1 CMC § 3806(g).

§ 70-50.2-005 Introduction and Purpose

The rules and regulations as set forth in this subchapter, and from time to time amended, are enacted to implement, interpret, prescribe, and clarify the policies and procedures required to implement, regulate, and supervise the operation of the Commonwealth of the Northern Mariana Islands Lottery. Where permissible or appropriate these rules and regulations shall have the force of law. These rules and regulations are subject to continuing review and modification and, consistent with the requirements of the Commonwealth Lottery Commission Act, 1 CMC §§ 9301, et seq., may be amended, modified or repealed as deemed*

* So in original.

Modified, 1 CMC § 3806(g).

History: Adopted 36 Com. Reg. 35899 (Dec. 28, 2014); Proposed 36 Com. Reg. 35823 (Nov. 3, 2014).

Commission Comment: The Commission inserted commas after the words “prescribe,” “regulate,” and “modified” pursuant to 1 CMC § 3806(g).

§ 70-50.2-010 Video Lottery

The term “video lottery” is defined as a form of public lottery which is a gambling scheme in which:

- (a) The players pay or agree to pay something of value for chances, represented and differentiated by numbers or combination of numbers or other medium one or more of which chances are to the winning ones; and,
- (b) The winning chances are to be determined by a method based on an element of chance; and,
- (c) The holders of the winning chances are to receive something of value.

(d) Electronic machines (otherwise known as video lottery terminals) are used and are centrally connected and/or monitored through a wide-area network approved computer system.

Modified, 1 CMC § 3806(f).

History: Adopted 36 Com. Reg. 35899 (Dec. 28, 2014); Proposed 36 Com. Reg. 35823 (Nov. 3, 2014).

Commission Comment: The Commission corrected the capitalization of the words “video lottery” pursuant to 1 CMC § 3806(f).

§ 70-50.2-015 Lottery Commission

(a) The term “Lottery Commission” or “Commission” is defined as established in 1 CMC §§ 9301-9323 and shall provide supervision of video lottery administration and operation.

(b) Commission membership consists of the Commissioner of Public Safety, the Secretary of Finance, the Secretary of Commerce, and the Attorney General. 1 CMC § 9302.

(c) Commission membership has been structured to include select members of the Executive Branch of the Commonwealth government who are in positions of significant community trust and authority.

(d) The purpose of structuring Commission membership to include these select positions of the Executive Branch was to establish public trust and confidence in government authorized gaming activities.

(e) In order to maintain public trust and confidence, Commission operations are to maintain the highest standard of transparency and promotion of the public interests.

(f) All Commission decisions are to be made within the confines of official Commission meetings and deliberations.

(g) Commission members are prohibited from meeting with vendors, potential contractors, or other interested parties concerning Commission activities outside of the confines of official Commission deliberations in order to avoid any assertion of influence and to ensure retention of public confidence and trust in decisions.

Modified, 1 CMC § 3806(f).

History: Adopted 36 Com. Reg. 35899 (Dec. 28, 2014); Proposed 36 Com. Reg. 35823 (Nov. 3, 2014).

Commission Comment: The Commission corrected the capitalization of the words “video lottery” in subsection (a) pursuant to 1 CMC § 3806(f).

Part 100 - Licensing Requirements

§ 70-50.2-101 Video Lottery Structure

(a) The video lottery shall be structured to use qualified independent contractors selected according to requirements of the Lottery Commission to provide the services associated with provision of video lottery terminals (“video lottery terminal contractor”), provision of central monitoring of video lottery operations (“video lottery central monitoring contractor”), and video lottery site requirements (“video lottery site operator”) (collectively “video lottery contractor(s)”).

(b) Under the video lottery structure, an individual or entity may apply for both a license to be a video lottery terminal contractor and a license to be a video lottery central monitoring contractor. An individual or entity may not apply for both a license to be a video lottery terminal contractor and a video lottery site operator. An individual or entity also may not apply for both a license to be a video lottery central monitoring contractor and a video lottery site operator.

Modified, 1 CMC § 3806(f).

History: Adopted 36 Com. Reg. 35899 (Dec. 28, 2014); Proposed 36 Com. Reg. 35823 (Nov. 3, 2014).

Commission Comment: The Commission corrected capitalization throughout this section pursuant to 1 CMC § 3806(f). The December 2014 Notice of Adoption made changes to this section.

§ 70-50.2-105 Video Lottery Site Operator

(a) The term “video lottery site operator” is defined as an independent contractor which enters into a contract with the Commission for the provision of a site to be used for placement and operation of video lottery operations (“gaming site”).

(b) Services to be provided by the video site operator and associated requirements are to be established by contract with the Lottery Commission.

(c) Video lottery site operator must be able to obtain and maintain a license issued by the Lottery Commission as a video lottery site operator.

(d) In general, a video lottery site operator must provide site services including but not limited to: food and beverage services; security for gaming operations; cashier services; site maintenance; utilities; floor area; and accommodation of the needs of other video lottery contractors that meet or exceed standards of professional gaming operations.

(e) Video lottery site operator must provide insurance and bonds as required by the Commission.

(f) In consideration of complete performance of all contract duties the video lottery site operator shall be provided a percentage of net gaming proceeds as defined and established in the contract with the Commission.

Modified, 1 CMC § 3806(f).

History: Adopted 36 Com. Reg. 35899 (Dec. 28, 2014); Proposed 36 Com. Reg. 35823 (Nov. 3, 2014).

Commission Comment: The Commission corrected capitalization throughout the section pursuant to 1 CMC § 3806(f).

§ 70-50.2-110 Video Lottery Central Monitoring Contractor

(a) The term “video lottery central monitoring contractor” is defined as an independent contractor which enters into a contract with the Commission to provide required monitoring services of video lottery operations.

(b) Video lottery central monitoring contractor must be able to obtain and maintain a license issued by the Lottery Commission as a video lottery central monitoring contractor.

(c) Services to be provided by the video lottery central monitoring contractor and requirements are to be determined by contract with the Commission.

(d) In general, the video lottery central monitoring contractor is to provide a system for constant monitoring of video lottery operations according to appropriate standards so as to ensure integrity of gaming operations and monitoring of associated financial elements and provide the Commission with required reports. The video lottery central monitoring contractor must provide required resources to test all video lottery terminals so as to ensure compliance with standards established by the Lottery Commission and monitoring of video lottery terminal operation so as to assure continued compliance with these standards.

(e) The video lottery central monitoring contractor must provide insurance and bonds as required by the Commission.

(f) In consideration of complete performance of all contract duties the video lottery central monitoring contractor shall be provided a percentage of net gaming proceeds as defined and established in the contract with the Commission.

Modified, 1 CMC § 3806(f).

History: Adopted 36 Com. Reg. 35899 (Dec. 28, 2014); Proposed 36 Com. Reg. 35823 (Nov. 3, 2014).

Commission Comment: The Commission corrected capitalization throughout the section pursuant to 1 CMC § 3806(f).

§ 70-50.2-115 Video Lottery Terminal Contractor

- (a) The term “video lottery terminal contractor” is defined as an independent contractor who enters into a contract with the Commission to provide identified video lottery terminals.
- (b) A video lottery terminal contractor must be able to obtain and maintain a license issued by the Lottery Commission as a video lottery terminal contractor.
- (c) The services to be provided by the video lottery terminal contractor and requirements are to be determined by contract with the Commission.
- (d) In general, a video lottery terminal contractor is to provide identified video lottery terminals and associated software and licenses as identified in the contract with the Commission that meet or exceed identified standards. A video lottery terminal contractor must provide required resources to supply, place, maintain, and assure continued operation of contracted video lottery terminals.
- (e) Video lottery terminal contractors must provide insurance and bonds as required by the Commission.
- (f) In consideration of complete performance of all contract duties, the video lottery terminal contractor shall be provided a percentage of net gaming proceeds as defined and established in the contract with the Commission.

Modified, 1 CMC § 3806(f), (g).

History: Adopted 36 Com. Reg. 35899 (Dec. 28, 2014); Proposed 36 Com. Reg. 35823 (Nov. 3, 2014).

Commission Comment: The Commission corrected capitalization throughout the section pursuant to 1 CMC § 3806(f). The Commission inserted a comma after the word “maintain” in subsection (d) pursuant to 1 CMC § 3806(g).

§ 70-50.2-120 Video Lottery Contractor Business Plan

- (a) Video lottery contractors must provide an annual business plan (“business plan”) and associated budget identifying all operational and capital costs for the upcoming calendar year (or initial operating period) for approval by the Commission in form and detail as required by the Commission for their consideration and approval (collectively “approved business plan”).
- (b) The business plan must identify contract responsibilities and how Video Lottery Contractor will use resources to accomplish these responsibilities including staffing.
- (c) The operation of video lottery contractors is to conform to the approved business plan or as amended and approved by Commission.

- (d) All video lottery contractors shall be subject to audit by the Commission auditors to assure compliance with the approved business plan.
- (e) Video lottery contractors must comply fully with requests for information by Commission auditors.
- (f) In the Commission's sole discretion, an amendment to an approved business plan may be approved if it is determined that an amendment or amendments are necessary to: Increase revenues from the video lottery, protect the public welfare, or ensure the security of the video lottery.
- (g) In consideration for full compliance with all terms of the contract with the Commission, video lottery contractors will be provided a percentage of net gaming revenues as established in the specific contracts with the Commission.
- (h) Contractor must file monthly report with the Commission by the 10th day of each month indicating financial status of operations of previous month in relation to the approved business plan.
- (i) To the extent provided by law, any information obtained pursuant to this section shall be held in confidence and not subject to the Open Government Act, 1 CMC §§ 9901 et seq.

Modified, 1 CMC § 3806(f), (g).

History: Adopted 36 Com. Reg. 35899 (Dec. 28, 2014); Proposed 36 Com. Reg. 35823 (Nov. 3, 2014).

Commission Comment: The Commission corrected capitalization throughout this section pursuant to 1 CMC § 3806(f). The Commission inserted the word "the" before "approved" in subsections (d) and (h) and "previous" in subsection (h), corrected the spelling of "Commission's" in subsection (f), inserted a comma after the word "welfare" in subsection (f), and corrected the citation to 1 CMC §§ 9901 et seq. in subsection (i) pursuant to 1 CMC § 3806(g).

Part 200 - Licensing Process

§ 70-50.2-201 Video Lottery Contractor Licensing Application

- (a) Only individuals or entities receiving and maintaining a video lottery contractor license are eligible to provide the services of a video lottery contractor.
- (b) Only entities selected by the Commission for consideration of the establishment of a contract for the provision of video lottery services shall be eligible to apply for a video lottery contractor license ("applicants").
- (c) Applicants for a license as a video lottery contractor shall complete all required forms and provide the following, without limitation:
 - (1) The applicant's legal name, form of entity (e.g., general or limited partnership, corporation), the names, addresses, employer identification or Social Security numbers (if

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applicable or alternatively, if not applicable, passport numbers) and dates of birth (if applicable) of its directors, officers, partners, owners, and video lottery operations employees.

(2) A description of the applicant's organizational structure and a copy of current organizational documents and any subsequent amendments.

(3) With respect to any entities named in subsection (c)(1) that are not individuals, the names, addresses, Social Security numbers, and birth dates of all individuals who are directors, officers, owners, partners, key employees, or video lottery operations employees of any such entity.

(4) The percentages of shares of stock, if any, held by each person named in subsection (c)(1) or subsection (c)(3) above.

(5) The names of all persons principally involved in the original creation of the applicant's enterprise.

(6) The names, if any, and addresses, Social Security numbers, and dates of birth of any person who is or was a director, officer, owner, partner, employee of the applicant who has been charged with or convicted of a felony, a crime involving gambling, dishonesty, or moral turpitude.

(7) Certified copies of the applicant's charter, articles of incorporation, partnership agreement, and other documents which constitute or explain the legal organization of the applicant.

(8) The information required by subsection (c)(1) above as to any operator of any business conducted by such applicant and any other contractor (which is not a publicly traded entity) utilized by such applicant which has received compensation from such applicant in excess of \$10,000 in any of the three preceding fiscal years together with a copy of all agreements between such applicant and such operator or contractor and a statement of all compensation paid to such operator or contractor during said three-year period.

(9) Copies of the applicant's audited financial statements for the preceding three fiscal years and a copy of internally prepared financial statements for the current fiscal year as at the close of the most recent fiscal quarter.

(10) Copies of the applicant's Commonwealth or United States tax returns for the three most immediate previous fiscal years.

(11) Copies of the declaration pages of all insurance policies insuring the applicant.

(12) The information required as to the ten largest unsecured creditors which are not publicly traded entities or accounting firms or legal firms of the applicant who are owed more than \$10,000 by the applicant for a period in excess of sixty days.

(13) Disclosure regarding the applicant or any other persons identified in subsections (c)(1) or (c)(3) who were rejected for any gambling or gaming license or permit in any other jurisdiction.

(14) Current tax clearance (issued within 30 days of date of application) from Commonwealth Department of Revenue & Taxation.

(15) Any and all other information as the Commission may require to determine the competence, honesty, and integrity of the applicant.

(16) Authorized disclosure and release forms.

(17) Identification of all gaming experience.

(18) Proposed business plan.

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(d) The application, as well as other documents submitted to the Commission by or on behalf of the applicant for purposes of determining the qualifications of the applicant or agent, shall be sworn to or affirmed before a notary public. If any form or document is signed by an attorney for the applicant, the signature shall certify that the attorney has read the forms or documents and that, to the best of his or her knowledge, information, and belief, based on diligent inquiry, the contents of the form or documents so supplied are true.

(e) Upon request of the Commission, the applicant shall supplement the information provided in the application form as deemed necessary by the Commission.

(f) The applicant shall furnish all information, including financial data and documents, certifications, consents, waivers, individual history forms, tax returns, cancelled checks, or other materials required or requested by the Commission for purposes of determining the qualifications of the applicant or agent.

(g) To the extent, if any, that the information supplied in the application or otherwise supplied by the applicant or on the applicant's behalf, becomes inaccurate or incomplete, the applicant shall so notify the Commission in writing as soon as it is aware that the information is inaccurate or incomplete, and shall at that time supply the information necessary to correct the inaccuracy or incompleteness of the information.

(h) The applicant shall cooperate fully with the Commission and its representatives or agents with respect to its background investigation of the applicant. Among other things, the applicant, upon request, shall make available any and all of its books or records for inspection by the Commission or its representatives.

(i) The business plan must provide that all services required to be performed by video lottery contractors must be performed by the contractor and its employees ("video lottery contractor employees") and not by agents or subcontractors.

(j) To the extent allowed by law, any information obtained pursuant to this section shall be held in confidence and not subject to the Open Government Act, 1 CMC §§ 9901 et seq.

(k) Applicant shall pay for all costs associated with license application and shall deposit an initial amount of fifteen thousand dollars as a deposit ("deposit") for these expenses at time of submission of the application which the Commission may draw upon as required. The deposit is non-refundable. If expenses exceed the amount of deposit, applicant will be required to reimburse the Commission for these additional expenses.

Modified, 1 CMC § 3806(d), (e), (f), (g).

History: Adopted 36 Com. Reg. 35899 (Dec. 28, 2014); Proposed 36 Com. Reg. 35823 (Nov. 3, 2014).

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Commission Comment: The Commission substituted section numbers pursuant to 1 CMC § 3806(d). The Commission struck the figures “3” from subsections (c)(8), (c)(9), and (c)(10), “10” from subsection (c)(12), and “\$15,000” from subsection (k) pursuant to 1 CMC § 3806(e). The Commission corrected the capitalization of the word “license” in subsection (k) pursuant to 1 CMC § 3806(f). The Commission inserted the word “a” before “video” in subsection (c), inserted commas after the words “honesty” in subsection (c)(15), “information” in subsection (d), “checks” in subsection (f), and corrected a citation to 1 CMC §§ 9901 et seq. in subsection (j) pursuant to 1 CMC § 3806(g).

The December 2014 Notice of Adoption made changes to this section. The Notice of Adoption purported to add a new subsection (b)(8) to this section, but the complete regulations attached to the Notice indicated that the new subsection should be added to § 70-50.2-215. See 36 Com. Reg. 35914 (Dec. 28, 2014). The Commission codified the subsection at § 70-50.2-215.

§ 70-50.2-205 Video Lottery Contractor License Application Review

(a) Upon determination by the Commission that the application is complete, it shall, as soon as practicable, undertake and complete the background investigation of the applicant and report its findings.

(b) All video lottery contractors must be able to obtain and maintain a video lottery contractor license at all times during the period of the video lottery contract.

(c) The Commission shall weigh the following factors in its evaluation of the application:

(1) The criminal background, if any, of the applicant, or any of its officers, directors, partners, owners, and employees. No license shall be issued to any applicant if any of the persons identified in this subsection have been convicted, within 10 years prior to the filing of the application, of any felony, a crime of moral turpitude, gambling, or dishonesty.

(2) The extent to which, if any, the applicant would be subject to the control or influence of its activities by any person having a financial interest pertaining to the applicant, including a mortgage or other lien against property of the applicant or, who in the opinion of the Commission, might otherwise influence its activities. In such case the Commission shall consider the character, honesty, and integrity of whoever has the ability to control or influence the activities of the applicant.

(3) The degree to which the applicant has demonstrated its ability to finance the proposed video lottery operations, as well as the source of such financing.

(4) The degree to which the applicant has supplied accurate and complete information pursuant to the requirements of these regulations.

(5) Whether the applicant has demonstrated the business ability and experience necessary to satisfactorily conduct the video lottery operations.

(6) The extent to which the applicant has cooperated with the Commission in connection with the background investigation.

(7) Whether the person, or any of its officers, directors, partners, owners, key employees, or video lottery operations employees are known to associate with persons of nefarious backgrounds or disreputable character such that the association could adversely affect the general credibility, security, integrity, honesty, fairness, or reputation of the lottery.

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(8) With respect to any past conduct which may adversely reflect upon the applicant, the nature of the conduct, the time that has passed since the conduct, the frequency of the conduct, and any extenuating circumstances that affect or reduce the impact of the conduct or otherwise reflect upon the applicant's fitness for the license.

(9) The extent, if any, to which the applicant has failed to comply with any applicable tax laws of the United States, Commonwealth, or other governments.

(10) Any other information before the Commission, including substantially similar background investigations performed by other agencies or jurisdictions, which relates to the applicant's competency, financial capability, honesty, integrity, reputation, habits, or associations.

(11) The proposed business plan.

(d) A license shall be issued to the applicant if the Commission is satisfied, upon consideration of the factors specified herein that the applicant would be a fit licensee and not pose a threat to the public interest, the reputation of the lottery, or the effective control of the lottery.

Modified, 1 CMC § 3806(f), (g).

History: Adopted 36 Com. Reg. 35899 (Dec. 28, 2014); Proposed 36 Com. Reg. 35823 (Nov. 3, 2014).

Commission Comment: The Commission corrected capitalization throughout the section pursuant to 1 CMC § 3806(f). The Commission inserted the word "the" before "period" and "video" in subsection (b), corrected "his or her" to "its" in subsection (c), and inserted commas after the words "honesty" in subsection (c)(2), "fairness" in subsection (c)(7), "conduct" in subsection (c)(8), and "Commonwealth" in subsection (c)(9) pursuant to 1 CMC § 3806(g).

§ 70-50.2-210 Video Lottery Contractor Employees License Application

(a) Applicants for a license as a video lottery monitor contractor; video lottery terminal contractor, or video lottery site contractor (collectively "video lottery employees") shall apply to the Commission on specified forms and shall provide the following, without limitation:

- (1) Name;
- (2) Address of residence;
- (3) Driver's License or Passport;
- (4) Last two years of income tax returns;
- (5) Telephone number;
- (6) E-mail address;
- (7) Any previous name used;
- (8) Arrest record;
- (9) Identification of any prior criminal convictions;
- (10) Education level;
- (11) Any creditor or bankruptcy proceedings;
- (12) Current tax clearance (issued within 30 days of date of application) from Commonwealth Department of Revenue & Taxation;
- (13) Fingerprints;
- (14) Employment history;

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- (15) Authorized disclosure and release forms; and
- (16) Identification of all gaming experience.

(b) Upon request of the Commission, the applicant shall supplement the information provided in the application form as deemed necessary. The applicant shall furnish all information, including financial data and documents, certifications, consents, waivers, individual history forms, tax returns, cancelled checks, or other materials required or requested by the Commission for purposes of determining the qualifications of the applicant or agent.

(c) To the extent, if any, that the information supplied in the application or otherwise supplied by the applicant or on the applicant's behalf, becomes inaccurate or incomplete, the applicant shall so notify the Commission in writing as soon as it is aware that the information is inaccurate or incomplete, and shall at that time supply the information necessary to correct the inaccuracy or incompleteness of the information.

(d) The applicant shall cooperate fully with the Commission and representatives with respect to its background investigation of the applicant. Among other things, the applicant, upon request, shall make available any and all of its books or records for inspection by the Commission or its representatives.

(e) Applicant shall pay for all costs associated with license application and shall deposit an initial amount of two hundred and fifty dollars as a deposit ("deposit") for these expenses at time of submission of the application which the Commission may draw upon as required. The deposit is non-refundable. If expenses exceed the amount of the deposit, applicant will be required to reimburse the Commission for these additional expenses.

Modified, 1 CMC § 3806(e), (f), (g).

History: Adopted 36 Com. Reg. 35899 (Dec. 28, 2014); Proposed 36 Com. Reg. 35823 (Nov. 3, 2014).

Commission Comment: The Commission corrected capitalization throughout the section pursuant to 1 CMC § 3806(f). The Commission struck the figure "\$250" from subsection (e) pursuant to 1 CMC § 3806(e). The Commission inserted the word "a" before "video" in subsection (a) and "the" before "deposit" in subsection (e) and inserted a comma after the word "checks" in subsection (b) pursuant to 1 CMC § 3806(g).

§ 70-50.2-215 Video Lottery Employee License Application Review

(a) As soon as the Commission has determined that the application is complete, it shall, as soon as practicable, undertake and complete the background investigation of the applicant and report its findings.

(b) The Commission shall weigh the following factors in his or her evaluation of the application:

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- (1) The criminal background, if any, of the applicant. No license shall be issued to any applicant who has been convicted, within 10 years prior to the filing of the application, of any felony, a crime of moral turpitude, gambling, or dishonesty.
 - (2) The extent to which, if any, the applicant would be subject to the control or influence of its activities by any person having a financial interest pertaining to the applicant, including a mortgage or other lien against property of the applicant or, who in the opinion of the Commission, might otherwise influence its activities. In such case the Commission shall consider the character, honesty, and integrity of whoever has the ability to control or influence the activities of the applicant.
 - (3) The degree to which the applicant has supplied accurate and complete information pursuant to the requirements of these regulations.
 - (4) The extent to which the applicant has cooperated with the Commission and the Commission* in connection with the background investigation.
 - (5) Whether the applicant is known to associate with persons of nefarious backgrounds or disreputable character such that the association could adversely affect the general credibility, security, integrity, honesty, fairness, or reputation of the lottery.
 - (6) With respect to any past conduct which may adversely reflect upon the applicant, the nature of the conduct, the time that has passed since the conduct, the frequency of the conduct, and any extenuating circumstances that affect or reduce the impact of the conduct or otherwise reflect upon the applicant's fitness for the license.
 - (7) The extent, if any, to which the applicant has failed to comply with any applicable tax laws of the United States, Commonwealth, or other governments.
 - (8) Financial capability and integrity as demonstrated by filings for bankruptcy, receivership, lawsuits, foreclosures, liens, and any other indicia of financial solvency, insolvency, or lack of financial integrity.
 - (9) Any other information before the Commission, including substantially similar background investigations performed by other agencies or jurisdictions, which relates to the applicant's competency, financial capability, honesty, integrity, reputation, habits, or associations.
- (c) A license shall be issued to the applicant if the Commission is satisfied, upon consideration of the factors specified that the applicant would be a fit licensee and not pose a threat to the public interest, the reputation of the lottery, or the effective control of the lottery.
- (d) The Commission will communicate the results of suitability in writing regarding an employee to either* the video lottery contractor employing said individual. The Lottery will provide a copy of the criminal history record to the employee upon request.
- (e) All records pertaining to criminal background checks, and copies of suitability determinations of applicants for licensure, shall be maintained in a confidential manner.
- (f) Access to criminal background check records, and letters of reference accompanying out-of-state criminal background checks, and determinations of suitability of applicants shall be limited to the Commission and designated personnel.

* So in original.

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Modified, 1 CMC § 3806(f), (g).

History: Adopted 36 Com. Reg. 35899 (Dec. 28, 2014); Proposed 36 Com. Reg. 35823 (Nov. 3, 2014).

Commission Comment: The Commission corrected capitalization throughout this section pursuant to 1 CMC § 3806(f). The Commission inserted commas after the words “honesty” in subsection (b)(2), “fairness” in subsection (b)(5), “conduct” in subsection (b)(6), “Commonwealth” in subsection (b)(7), and “liens” and “insolvency” in subsection (b)(8) pursuant to 1 CMC § 3806(g).

The December 2014 Notice of Adoption added subsection (b)(8). See the Commission Comment to § 70-50.2-201.

§ 70-50.2-220 Video Lottery Contractor License Conditions

The approval of any license or the renewal of a license to an agent is subject to the following conditions:

(a) Operation pursuant to a license issued under these regulations shall signify agreement by the licensee to abide by all provisions of these regulations, including those contained in this section.

(b) Licenses shall be valid for a three-year period from date of issuance unless terminated or revoked or contractor is no longer engaged in a contract with the Commission as a video lottery contractor.

(c) A video lottery central monitoring contractor and a video lottery site operator shall at all times make its premises available for inspection by authorized representatives of the Commission, or any Commonwealth personnel engaged in the enforcement of these regulations or any other Commonwealth law, on a 24-hour unannounced basis. Lottery Commission members or personnel as well as any Commonwealth government personnel engaged in the enforcement of Commonwealth law are authorized entry to the premises and access to any video lottery machines or records of a video lottery contractor without acquiring a warrant.

(d) The contractor consents to the examination of all accounts, bank accounts, and records under the control of the contractor; and, upon request of the Commission, shall authorize all third parties in possession or control of the said documents to allow the Commission to examine such documents.

(e) To the extent permitted by law, a contractor accepts all risks of adverse public notice, embarrassment, criticism, damages, or financial loss which may result from any disclosure or publication of material or information supplied to the Commission in connection with the license application.

(f) A video lottery contractor shall immediately notify the Commission of any proposed or effective change regarding the makeup of the owners, directors, officers, partners, or employees of the contractor.

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(g) Except to the extent implicated by § 70-50.2-101(b), a video lottery contractor shall certify by a sworn notarized statement that it has not entered and does not intend to enter into any joint venture, partnership, independent contractor, or teaming agreement in order to fulfill its obligations in connection with the video lottery operations; that it is not acting as a distributor of products manufactured by another entity; and that it has not entered and does not intend to enter into any agreement whereunder the proceeds generated by any agreement between the agent and the Commission would be shared with one or more other persons.

(h) No license granted may be transferred, assigned, or pledged as collateral.

(i) No change of ownership or control of a video lottery contractor that occurs after issuance of a license by the Commission shall be allowed without prior approval of the Commission.

(j) Video lottery contractors, officers, directors, and employees are prohibited from participating in video lottery wagering in any form or manner.

Modified, 1 CMC § 3806(d), (f), (g).

History: Adopted 36 Com. Reg. 35899 (Dec. 28, 2014); Proposed 36 Com. Reg. 35823 (Nov. 3, 2014).

Commission Comment: The Commission substituted section numbers pursuant to 1 CMC § 3806(d). The Commission corrected capitalization throughout the section pursuant to 1 CMC § 3806(f). The Commission inserted commas after the words “contractor” in subsection (g), “assigned” in subsection (h), and “directors” in subsection (i) pursuant to 1 CMC § 3806(g).

The December 2014 Notice of Adoption made changes to subsections (c) and (g).

§ 70-50.2-225 Video Lottery Contractor Employee License Conditions

(a) All video lottery employees must possess a currently valid video lottery contractor employee license to perform any duties or functions of a video lottery contractor.

(b) Licenses are valid for a two-year period from date of issuance or until employment with the identified video lottery contractor ceases.

(c) Employee must comply with Commonwealth laws and regulations.

(d) Employees must limit their duties to the specific job duties associated with their job description and activity limits associated with their video lottery contractor employer.

(e) Employees may not engage in unauthorized activity associated with the video lottery terminals.

(f) Employees must update license information to reflect any changes that occur during the year.

(g) Video lottery contractor employees are prohibited from participating in video lottery wagering in any form or manner.

(h) Video lottery contractor employees must wear their license in prominent display on the front of their shirt area at all times during hours of employment.

(i) Every license issued by the Commission shall bear thereon the distinguishing number assigned to the licensee and shall contain the name and photograph of the licensee. The license shall also contain the name of the sponsoring employer.

(j) The video lottery contractor employee license is the property of the Commission. The VLT license shall be returned to the Commission if it is suspended, expires, or upon termination of employment.

Modified, 1 CMC § 3806(f), (g).

History: Adopted 36 Com. Reg. 35899 (Dec. 28, 2014); Proposed 36 Com. Reg. 35823 (Nov. 3, 2014).

Commission Comment: The Commission corrected capitalization throughout this section pursuant to 1 CMC § 3806(f). The Commission inserted the words “their” before “license,” “the” before “front,” and “their” before “shirt” in subsection (h), and “upon” before “termination” in subsection (j) pursuant to 1 CMC § 3806(g).

§ 70-50.2-230 Denial of License

(a) If a determination is made to deny a license, the person or entity shall have an opportunity to appeal for reconsideration as identified herein.

(b) Appeal shall be initiated by a party notified that he/she is being denied a license pursuant to the Commonwealth Administrative Procedure Act and Video Lottery Regulations by submitting a request for a hearing to the Commission within ten working days of the receipt of the written notice.

(c) The purpose of the hearing is for the Commission to present reasons for license revocation and opportunity to licensee to refute asserted reasons for revocation or denial and present reasons why the license should not be revoked or denied.

(d) If an applicant desires a hearing, he shall provide the Commission with a written statement within ten days of receipt of the notice of denial which contains the following:

(1) A clear and concise assignment of each error which the Commission alleges to have been committed in the tentative determination to deny the license. Each assignment of error should be listed in a separately numbered paragraph.

(2) A clear and concise statement of the facts on which the applicant relies in support of each assignment of error.

(3) A prayer setting forth the relief sought.

(4) The signature of the applicant verifying that the statements contained in the statement are true.

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- (e) The appellant shall be given the right to be heard within thirty working days of the receipt of the letter of appeal, unless extenuating circumstances require a longer period.
- (f) A written decision shall be rendered by within thirty working days of the hearing unless extenuating circumstances require a longer period. All decisions made under this appeal procedure are final.
- (g) Hearing will be conducted by a hearing officer who shall establish appropriate rules and procedures.
- (h) Parties will be allowed to present relevant evidence.
- (i) A recording of the hearing will be made and retained for a one year period from date of hearing.
- (j) A person determined to be unsuitable for licensure pursuant to these regulations shall be prohibited from reapplying for licensure for a period of twelve months.
- (k) Decisions of the hearing officer may be appealed within 30 days of decision to the Commonwealth Superior Court.

Modified, 1 CMC § 3806(e), (f), (g).

History: Adopted 36 Com. Reg. 35899 (Dec. 28, 2014); Proposed 36 Com. Reg. 35823 (Nov. 3, 2014).

Commission Comment: The Commission struck the figure “10” in subsection (b), “30” in subsections (e) and (f) and “12” in subsection (j) pursuant to 1 CMC § 3806(e). The Commission corrected the capitalization of the words “regulations” in subsection (j) and “court” in subsection (k) pursuant to 1 CMC § 3806(f). The Commission corrected the spelling of “regulations” in subsection (b) and inserted the word “the” before “purpose” in subsection (c) pursuant to 1 CMC § 3806(g).

Part 300 - Enforcement

§ 70-50.2-301 Enforcement

- (a) The license of a video lottery contractor or video lottery contractor employee may be suspended or revoked for the following reasons:
 - (1) Failure to file with the Commission the information required pursuant to these regulations; and
 - (2) For cause, such as, but not limited to falsifying any application for license or report to the Commission; failure to report information required by the regulations; the material violation of the regulations; or any conduct by the licensee, or any of its owners, officers, directors, partners, key employees, or video lottery operations employees, which undermines the public confidence in the video lottery system or serves the interest of organized gambling or crime and criminals in any manner.
 - (3) A license may be revoked for an unintentional violation of any federal, Commonwealth, or local law, rule, or regulation provided that the violation is not cured

within a reasonable time as determined by the Commission, or a longer period where the video lottery agent has made diligent efforts to cure. For purposes of this provision, the licensee is deemed to be familiar with all the provisions of these regulations and unintentional violations shall not include violations which the video lottery operator or video lottery terminal supplier asserts are unintentional because of lack of awareness of these regulations. Likewise, for purposes of this provision, diligent efforts to cure shall not constitute a defense to a suspension or revocation of the license arising out of reasons identified above or in situations where the violation would not have occurred had the licensee exercised diligent efforts to comply with the requirements when they were first applicable.

(b) Prior to the revocation or suspension of any license, the Commission shall notify the licensee of the intended revocation or suspension of the license, and the reasons therefore. No revocation or suspension shall be effective until a final order is issued pursuant to the following procedure, except when the public welfare clearly requires emergency action and the Commission's order so states. The notice of the intended revocation or suspension shall comply with any applicable requirements of the Commonwealth Administrative Procedure Act and, at a minimum, afford the licensee with an opportunity for a hearing.

(c) If the licensee desires a hearing, it shall provide the Commission with a written statement within ten days of receipt of the notice which contains the following:

(1) A clear and concise assignment of each error which the licensee alleges to have been committed in the tentative determination to suspend or revoke the license. Each assignment of error should be listed in a separately numbered paragraph.

(2) A clear and concise statement of the facts on which the licensee relies in support of each assignment of error.

(3) A prayer setting forth the relief sought.

(4) The signature of the licensee or an officer authorized to request the hearing.

(5) A verification by the licensee or counsel for the licensee that the statements contained in the statement are true.

(d) The Commission, with respect to petitions filed by agents and technology providers, shall appoint a hearing officer within a reasonable time of receipt of the statement referenced in the preceding paragraph. Notice of the hearing shall be given at least 20 days before the date it is to be held.

(e) The licensee may appear individually, by legal counsel, or by any other duly authorized representative. In the absence of the licensee, written evidence of a representative's authority shall be presented to the hearing officer in a form satisfactory to the hearing officer.

(f) The licensee or his duly authorized representative, may, with the approval of a hearing officer, waive the hearing and agree to submit the case for decision on the record, with or without a written brief. Such a waiver or agreement shall be in writing and placed in the record.

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(g) The licensee shall be given an opportunity for argument within the time limits fixed by the hearing officer following submission of the evidence. The hearing officer, upon request of the licensee, may accept briefs in lieu of argument. The briefs shall be filed within ten days after the hearing date or within such other time as fixed by the hearing officer.

(h) The hearing officer may admit any relevant evidence, except that it shall observe the rules of privilege recognized by law. The hearing officer may exclude any evidence which is irrelevant, unduly repetitious, or lacking a substantial probative effect.

(i) A record shall be made of all hearings and all witnesses shall be sworn and subject to cross examination.

(j) Following the conclusion of the hearing and within ten days of the receipt of the transcript thereof, or within such other time as fixed by the hearing officer but in no event later than forty-five days following the hearing, the hearing officer shall prepare a final decision, including his or her findings of fact and conclusions of law, and the order signed by the hearing officer shall be final. A copy of said order shall be served upon the licensee and any attorney of record in person or by registered or certified mail.

Modified, 1 CMC § 3806(f), (g).

History: Adopted 36 Com. Reg. 35899 (Dec. 28, 2014); Proposed 36 Com. Reg. 35823 (Nov. 3, 2014).

Commission Comment: The Commission corrected capitalization throughout this section pursuant to 1 CMC § 3806(f). The Commission inserted the word “to” before “these” in subsection (a)(1), inserted commas after the words “Commonwealth” and “rule” in subsection (a)(3), and corrected the spelling of “therefor” in subsection (b) pursuant to 1 CMC § 3806(g).