



SPONSOR: To be Determined

HOUSE OF REPRESENTATIVES
145th GENERAL ASSEMBLY

HOUSE AMENDMENT NO. _

TO

HOUSE BILL NO. 194

1 AMEND House Bill No. 194 by striking lines 1 through 6 in their entirety and substituting in lieu thereof the
2 following:

3 Section 1. Amend § 4805(b)(13), Title 29 of the Delaware Code by deleting the first sentence thereof and
4 substituting in lieu thereof the following:

5 "License as video lottery agents each person corporation or association which is either selected as a Video Lottery
6 Casino pursuant to section 4819(a)(2) of this Title, or which, in 1993, held either a horse racing meet pursuant to Title 3 or
7 Title 28 or a harness horse racing meet pursuant to Title 3; provided that such person, corporation or association satisfies
8 such fitness and background standards as the Director may promulgate pursuant to subsection (a)(16) of this section."

9 Section 2. Amend § 4819(a), Title 29 of the Delaware Code by designating the entirety of the existing subsection
10 as paragraph "(1)" thereof and by inserting a new paragraph "(2)" thereto as follows:

11 "(2) A. Notwithstanding the provisions of paragraph (1), video lottery machines, sports lottery machines and table
12 game equipment may be located within the confines of two Video Lottery Casinos, one of which shall be located within the
13 City of Wilmington and one of which shall be located in Sussex County, the precise location of such Video Lottery Casinos
14 to be determined through a competitive process by the Lottery Redevelopment Committee in accordance with this section.
15 Video lottery machines, sports lottery machines and table game equipment shall not be located in a hotel, motel or other
16 overnight sleeping facility.

17 B. A five member "Sussex County Lottery Redevelopment Committee" and a five member "City of Wilmington
18 Redevelopment Committee" (the "Committees") are hereby established for the sole purpose of designating the location of
19 and awarding a license to operate Video Lottery Casinos in Sussex County and the City of Wilmington respectively. The
20 Sussex Committee shall be comprised of the Director of the Delaware Economic Development Office, the Secretary of
21 Finance, a retired judicial officer of the Delaware courts appointed by the Governor, a retired banker with at least 12 years
22 experience in finance appointed by the Governor, and a retired law enforcement officer appointed by the Governor, who
23 shall also designate one of the members as the Chair. The City of Wilmington Committee shall be comprised of two

24 members appointed by Mayor of Wilmington, one member appointed by the President of Wilmington City Council,, the
25 Delaware Secretary of Finance, and the Director of the Delaware Economic Development Office, who shall serve as the
26 Chair. The members of each Committee shall be appointed within 30 days of the enactment of this paragraph..

27 C. Each Committee shall select, in separate processes, one location within its respective jurisdiction for a Video
28 Lottery Casino from applications for licensure subject to, and in accordance with, the provisions of this paragraph.
29 Applications must be submitted to the appropriate Committee at the location and date specified by its Chairperson, but no
30 sooner than 60 days and no later than 75 after enactment of this act. All applications shall be considered by the appropriate
31 Committee and the Video Lottery Casino sites shall be designated by majority vote of each of the Committees from among
32 the applications pertaining to its jurisdiction within 45 days after the deadline for applications. If, in either jurisdiction, no
33 applicant receives a majority vote of the appropriate Committee, then that Committee will re-vote until such time as an
34 application receives a majority vote.

35 D. The applicant receiving a majority vote of each Committee shall be awarded a license as a video lottery agent
36 by the Office, which license shall be conditioned upon the completed execution of all elements of the development plan
37 outlined in the application planned for completion at or about the time of the completion of all gaming areas. Video Lottery
38 Casinos shall have all the rights and duties applicable to video lottery agents under this chapter.

39 E. An application shall be in the form and manner required by the appropriate Committee, but which shall
40 include, but not be limited to, the name, address and photograph of the applicant and the directors, owners and key
41 employees of the applicant, the proposed location of the applicant, a current Delaware business license, such personal and
42 financial history information for owner and investors, to be determined by each Committee, as is necessary for each
43 Committee to review the financial fitness of each applicant and for the Division of Gaming Enforcement to review the
44 background of each applicant to at least the standards of a key employee, consent to cooperation with the investigation of
45 the Division of Gaming Enforcement, a proposed one-time license fee that the applicant would be willing to pay to the
46 Lottery for the right to operate as a video lottery agent, and such other information as each Committee deems necessary for
47 consideration of the minimum qualifications and criteria set forth in this section. The Division of Gaming Enforcement
48 shall conduct a background review of each applicant and each of the applicant's identified owners, investors and identified
49 actual or potential employees to the standard of a key employee, and the results of that review shall be made available to the
50 appropriate Committee but shall otherwise remain confidential pursuant to section 4830 of this Title.

51 F. Each Committee shall also develop and implement minimum qualifications for applicants, which
52 qualifications shall include the ownership of, a leasehold for, or right to acquire such interests in, the proposed property
53 location, financing commitments for the development of the proposed property location, and a lack of insuperable barriers

54 to eventual approval of the development plan by government authorities. The Committees shall not further consider those
55 applicants that it determines fail to meet the minimum qualifications.

56 G. Applicants meeting the minimum qualifications of the appropriate Committee shall be evaluated by such
57 Committee based on the following criteria:

58 i. Apart from the location, whether the proposed applicant and its ownership, investors and key
59 employees meet the applicable licensing requirements as set forth in this Chapter;

60 ii. Overall anticipated revenue of the Delaware Lottery at the location of the applicant under the business
61 plan as submitted. Each Committee may, in its sole discretion, take into account the planned non-casino
62 development of the project, the quality of any estimates provided and the reasonableness of any underlying
63 assumptions;

64 iii. The capacity of the project to create the maximum number of jobs, including both permanent and
65 temporary employment. Each Committee may, in its sole discretion, take into account planned non-casino
66 development of the project, the quality of any estimates provided and the reasonableness of any underlying
67 assumptions;

68 iv. The business plan for the project and the experience of the owners, developers and video lottery
69 casino operators; provided that, in considering the business plan for the project, the Committee shall consider
70 principally those elements of the project outlined in the application that are planned for completion at or about the
71 time of the completion of all gaming areas.

72 v. The financial viability of the applicant, the owners and developers of the facility, and the financial
73 investment of the applicant to date;

74 vi. The speed with which applicant may be opened for business, it being the intent of this provision that
75 the Delaware Lottery be operational at the location of the applicant as soon as reasonably practicable;

76 vii. Whether there is a reasonable expectation that any required approvals from any governmental entities
77 or agencies will be obtained in a timely fashion;

78 viii. Effects on the surrounding community, including any support for the project evidenced by the
79 community and minimizing any adverse effects on the surrounding community;

80 ix. Minimizing the total impact of the proposed new facility on the revenues of current video lottery
81 agents, including consideration of any proposals made by an applicant that does not intend to operate a horse
82 racing or harness racing track to equitably address disparities in the costs experienced by video lottery agents that
83 do operate such a facility;

84 x. The total value of a one-time license fee that the applicant would be willing to pay for the right to
85 operate as a video lottery agent of the Lottery. In calculating the total values of such license fee, each Committee
86 shall include the value of any proposed expenditure for public benefit assets, including but not limited to dedicated
87 parks, community centers, educational facilities, medical facilities, and the like that applicant is prepared to build
88 as a condition of the award and retention of a license. Each Committee may also consider as part of the one-time
89 license fee the total capital cost of facilities related to a horse racing track for applicants that commit to the
90 construction of the same as a condition of their license as a Video Lottery Agent of the State.

91 H. The decisions of the Committee shall be final and unappealable."

92 FURTHER AMEND House Bill No. 194 by striking sections 4 and 5 in their entirety and substituting in lieu
93 thereof the following:

94 "Section 4. Amend § 10048, Title 3 of the Delaware Code by striking the number "80" when it appears in
95 subparagraph (1)a.1. and substituting in lieu thereof "120," striking the number "60" when it appears in subparagraph
96 (1)a.2. and substituting in lieu thereof "100," and adding a new subparagraph "3." to paragraph a. of subparagraph (1)
97 thereof as follows:

98 "3. A licensee that was not in existence, and/or did not conduct any live harness racing, during 1992 shall, at a
99 minimum, conduct live harness horse races on at least: (i) 35 days for the first 3 years it is licensed by the Director of the
100 State Lottery Office to maintain video lottery machines within the confines of a racetrack licensed under this chapter; and
101 (ii) for each year thereafter, for the average number of days that live harness racing was conducted by all licensees licensed
102 by the Director of the State Lottery Office to maintain video lottery machines within the confines of a racetrack licensed
103 under this chapter during the preceding year; provided, however, that licensees who conducted live harness horse races
104 during 1992 shall be entitled, upon written notice to the Delaware Harness Racing Commission, to reduce the number of
105 minimum days of live harness racing required under subparagraph (1)a.1 and (1)a.2. hereof by the number of concurrent
106 racing dates said licensee has with such newly-built racetrack.

107 Section 5. Further Amend § 10048, Title 3 of the Delaware Code by deleting sub-paragraph (1)b.3. in its
108 entirety."

109 FURTHER AMEND House Bill No. 194 by adding new Sections 6, 7, 8, 9, and 10 thereto as follows:

110 "Section 6. Amend § 4801(b), Title 29 of the Delaware Code by striking the existing paragraph (2) thereof in its
111 entirety and substituting a new paragraph "(2)" in lieu thereof as follows:

112 (2) Restrict the location of such lottery to locations where wagering is or may be permitted as authorized in this
113 Chapter.

114 Section 7. Amend § 4820, Title 29 of the Delaware Code by inserting the words “or Video Lottery Casino” after
115 the words “racetrack property” or “racetrack” wherever the same appear subsections (a) and (b) of said section.

116 Section 8. Amend § 4822, Title 29 of the Delaware Code by inserting the words “or Video Lottery Casino” after
117 the words “racetrack property” wherever it appears.

118 Section 9. Amend § 4826, Title 29 of the Delaware Code by deleting that section in its entirety.

119 Section 10. It is the intent of the General Assembly that the Video Lottery Casinos authorized pursuant to this act
120 shall be subject to at least the same amount of license fees, purse contributions and contributions to the Delaware
121 Standardbred Breeder's Program, the Delaware Certified Thoroughbred Program, and the Delaware Jockeys Health and
122 Welfare Benefit Fund currently paid by existing video lottery agents under sections 4815 and 4819 of this title, subject to
123 the enactment of legislation authorizing the imposition of said fees and contributions. It is also the intent of the General
124 Assembly that any Video Lottery Casino that does not operate a horse or harness racing track, and therefore incurs none of
125 the attendant costs, shall be subject to such additional fees that would create a level playing field for competition with video
126 lottery agents who do have such costs, subject to the enactment of legislation authorizing the imposition of such fees.
127 Finally, it is the intent of the General Assembly that the Video Lottery Casinos shall be subjected to one-time license fees
128 that may differ depending on the nature of the projects approved and whether or not the facility would operate a horse or
129 harness racing track, such fees to be conditioned upon the enactment of legislation authorizing the imposition of such fees.
130 The Secretary of Finance is directed to submit to the General Assembly, within 120 days from enactment of this section, a
131 proposal for the amendment of this chapter to subject the Video Lottery Casinos to such license fees and contributions.

SYNOPSIS

This amendment would authorize the addition of two video lottery agents, one in Sussex County and one in the City of Wilmington, through an application process conducted by separate Lottery Redevelopment Committees. The Amendment establishes criteria for the evaluation and award of the two licenses, including a requirement that each applicant bid a one-time license fee, composed of both cash and in-kind considerations, that it would be willing to pay to the State if awarded one of the licenses. This amendment also increases the number of required racing days to reflect the current amount of racing if an additional racing venue is licensed as a video lottery agent, and prevents the addition of video lottery agents from triggering a reduction in the minimum number of days that existing harness tracks must offer harness racing. This amendment also expresses the intent of the General Assembly that the new Video Lottery Casinos will be subject to a one-time license fee and ongoing license fees, purse contributions and other statutorily mandated payments that are currently the same as that currently required of video lottery agents, as well as such fees as are necessary to create a level playing field for competition with video lottery agents who operate horse racing or harness racing, and directs the Department of Finance to prepare legislation implementing that intent.

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