

PART 5. REQUIREMENTS AND QUALIFICATIONS FOR LICENSURE.

§29-22B-501. Types of licenses issued for participation in limited video lottery activities.

(a) The lottery commission may issue four types of limited video lottery licenses, as follows:

- (1) A manufacturer's license;
- (2) An operator's license;
- (3) A limited video lottery retailer's license; and
- (4) A service technician's license.

(b) A manufacturer's license is required for all persons who act as a manufacturer as defined in section 22B-319 of this article.

(c) An operator's license is required for all persons who engage in the business of placing and operating video gaming machines on the premises of a retailer. A licensed operator and a licensed limited video lottery retailer who hold a permit issued under part 11 of this article may obtain video lottery terminals only from a licensed manufacturer.

(d) A video lottery retailer's license is required for all persons conducting limited video lottery on their premises. Each person licensed as a retailer shall have and maintain sole and exclusive legal possession of the entire premises for which the retail license is issued.

(e) Each license issued pursuant to this section expires one year from the date of its issuance but may be successively renewed upon the filing and approval of an application for renewal, except as otherwise provided in this article.

§29-22B-502. General qualifications for all types of limited video lottery licenses.

No limited video lottery license or license renewal may be granted unless the lottery commission has determined that the applicant satisfies all of the following qualifications:

(1) The applicant is a person of good character, honesty and integrity;

(2) The applicant is a person whose background, criminal record, if any, reputation, habits and associations, do not threaten to (A) compromise the public interest of the citizens of the state, (B) weaken the effective regulation and control of video gaming, (C) breach the security and integrity of the lottery, or (D) introduce corrupt, unfair, or illegal practices, methods and activities into the operation of video gaming or the business or financial transactions incidental to the operation of video gaming;

(3) The applicant has not been convicted of any violation of this article, article 19-23-1, *et seq.*, of this code, articles 22, 22A or 25 of this chapter, or any felony related to theft, bribery, gambling or involving moral turpitude in this or in any other state or foreign country;

(4) The applicant has disclosed to the lottery commission the identity of each person who has control of the applicant, as control is described in section 22B-507, and those persons satisfy all qualifications required by this section and any applicable qualifications required by sections 22B-503 through 22B-506;

(5) The applicant has provided a set of fingerprints and has completed and signed the statement provided for in section 22B-602;

(6) The applicant has furnished all information, including financial data and documents, certifications, consents, waivers, individual history forms and other materials requested by the lottery commission for purposes of determining qualifications for a license.

§29-22B-503. Additional qualifications for an applicant for an operator's license.

(a) No operator's license or license renewal may be granted unless the lottery commission has determined that, in addition to the general requirements set forth in section 22B-502, the applicant satisfies all of the following qualifications:

(1)(A) If the applicant is an individual, the applicant has been a citizen of the United States and a resident of this state for the four year period immediately preceding the application; or

(B) If the applicant is a corporation, partnership or other business entity, the chief executive officer and the majority of the officers, directors, members and partners (to the extent each of these groups exists with respect to a particular business organization), both in number and percentage of ownership interest, have been citizens of the United States and residents of this state for the four year period immediately preceding the application.

(2) The applicant has demonstrated the training, education, business ability and experience necessary to establish, operate and maintain the business for which the license application is made;

(3) The applicant has secured any necessary financing for the business for which the license application is made, and the financing (A) is from a source that meets the qualifications of this section and (B) is adequate to support the successful performance of the duties and responsibilities of the licensee. A licensee shall request commission approval of any change in financing or leasing arrangements at least thirty days before the effective date of the change;

(4) The applicant has disclosed all financing or refinancing arrangements for the purchase, lease or other acquisition of video lottery terminals and associated equipment in the degree of detail requested by the lottery commission;

(5) The applicant has filed with the lottery commission a copy of any current or proposed agreement between the applicant and any manufacturer for the sale, lease or other assignment to the operator of video lottery terminals, the electronic computer components of the terminals, the random number generators of the terminals, or the cabinets in which they are housed; and

(6) The applicant does not hold any other license under this article, article 19-23-1, *et seq.*, of this code, or articles 22, 22A or 25 of this chapter, except that an applicant may also be licensed as a service technician.

(b)(1) A person or a member of his or her immediate family who has an ownership interest in a business entity that submits an application for an operator's license may not (A) submit an application for another operator's license as an individual, (B) serve as an officer, director, member or partner of a business entity that submits an application for another operator's license, or (C) have an ownership interest in any other business entity that submits an application for an operator's license.

(2) Business entities that have common owners or common officers, directors, members or partners may not hold more than one operator's license.

§29-22B-507. Persons having control of an applicant for a limited video lottery license.

The following persons are considered to have control of an applicant:

(1) Each person associated with a corporate applicant, including any corporate holding company, parent company or subsidiary company of the applicant, but not including a bank or other licensed lending institution which holds a mortgage or other lien acquired in the ordinary course of business, who has the ability to control the activities of the corporate applicant or elect a majority of the board of directors of that corporation. (2) Each person associated with a noncorporate applicant who directly or indirectly holds any beneficial or proprietary interest in the applicant or who the commission determines to have the ability to control the applicant. (3) Key personnel of an applicant, including any executive, employee or agent, having the power to exercise significant influence over decisions concerning any part of the applicant's business operation.

§29-22B-706. Additional duties of operators.

In addition to the general duties imposed on all licensees in section 22B-701 of this article, an operator shall:

- (1) Acquire video lottery terminals by purchase, lease or other assignment only from licensed manufacturers;
- (2) Acquire no video lottery terminals in excess of the number they are authorized to operate in this state as stated in the permit issued under part 11 of this article;
- (3) Contract with limited video lottery retailers for a secure location for the placement, operation and play of the video lottery terminals;
- (4) Pay no compensation of any kind to any limited video lottery retailer or give or transfer anything of value to any limited video lottery retailer, that is in addition to the consideration stated in the written agreement between the operator and the limited video lottery retailer, which may be not less than forty percent nor more than fifty percent of the amount of net terminal income received by the operator in connection with the video lottery terminals at that location;
- (5) Pay for the installation and operation of commission approved telephone lines to provide direct dial-up or on-line communication between each video lottery terminal and the commission's central control computer;
- (6) Purchase or lease and install computer controller units and other associated equipment required by the commission for video lottery terminals owned or leased by the permittee;
- (7) Permit no person to tamper with or interfere with the operation of any video lottery terminal;
- (8) Ensure that telephone lines from the commission's central control computer to the video lottery terminals located at the approved location are at all times connected, and prevent any person from tampering or interfering with the operation of the telephone lines;
- (9) Ensure that video lottery terminals are placed and remain placed in the specific places within the approved restricted access adult-only facility that have been approved by the commission. No video lottery terminal in a restricted access adult-only facility may be relocated within the restricted access adult-only facility without the prior written approval of the commission;
- (10) Assume financial responsibility for proper and timely payments by limited video lottery retailers of all credits awarded to players in accordance with legislative rules promulgated by the commission;
- (11) Enter into contracts with limited video lottery retailers to provide for the maintenance and repair of video lottery terminals and associated equipment only by licensed service technicians, and to provide for the placement of video lottery terminals pursuant to the provisions of this article;
- (12) Conduct no video lottery advertising and promotional activities;
- (13) Install, post and display prominently within or about the approved location signs, redemption information and other material as required by the commission;
- (14) Maintain general liability insurance coverage for all video lottery terminals in an amount of at least one million dollars per claim;
- (15) Promptly notify the commission in writing of any breaks or tears to any logic unit seals;
- (16) Assume liability for all amounts due to the commission in connection with any money lost or stolen from any video lottery terminal;
- (17) Comply with all applicable provisions of this article and rules and orders of the commission; and
- (18) Maintain a separate bank account into which the operator shall deposit the gross terminal income from all of the operator's video lottery terminals.



**Limited Video Lottery
Financial Information Required for License Application of Operator**

1. Compiled Financial Statements with footnotes for the most recent year-end.
2. Internally prepared financial statements for the period since (1) above.
3. If company is a start-up and has no prior activity then a projected financial statement for the first three years of activity.
4. Copy of a business plan demonstrating the company has the ability to successfully operate a limited video lottery business.
5. Copy of company's most recent Federal Income Tax Return.
6. Copy of company's most recent West Virginia Income Tax Return.
7. Copy of current West Virginia Business Registration Certificate.
8. List of all shareholders – indicate name, number of shares owned and a complete address.
9. For West Virginia residents in (8) above provide a copy of their valid Drivers License.
10. List of Senior Officers and/or beneficial owners of 5% or more of the Company.
11. Copy of loan agreement for purchase of video machines.
12. Copy of any purchase agreement for any video machines.
13. Copy of any agreement to place the video machines in retail establishments.
14. Copy of most recent Personal Federal Income Tax Return for each owner, officer or member.
15. Copy of most recent Personal West Virginia Income Tax Return for each owner, officer or member.

F.E.I.N. _____

License Number: _____
(Lottery Use Only)



KEY

WEST VIRGINIA LIMITED VIDEO LOTTERY OPERATOR INITIAL APPLICATION

PLEASE PRINT OR TYPE. ATTACH ADDITIONAL SHEETS AS REQUESTED

1. Include Non-Refundable Application Fee - **\$10,000** Check No. _____
2. Business or Organization Name _____ Phone No. _____
 Doing Business As _____ Fax No. _____
 Location _____
 Address _____ City/State/Zip _____
 Corporate Contact _____ Email _____
 Mailing Address _____ City/State/Zip _____
 F.E.I.N. _____ Business Registration No. _____

3. Indicate Type of Business or Organization:
 Sole Proprietorship Corp. or Subsidiary Other
 Partnership or Joint Venture LLC LLP

List all names as required per type of business defined below for each owner, officer, executive, key personnel, employee or agent having power to exercise significant influence over decisions concerning any part of the applicant's business operation.

Each individual listed will also be required to complete an Individual Affidavit and Personal Data Form,

- Sole Proprietorship** – List owner
- Partnership or Joint Venture**– List each general partner, limited partner, or joint venture.
- Corp. or Subsidiary, Association** – List each officer and director (including parent company if subsidiary.) Also list each stockholder, except of publicly owned. If publicly owned, list each stockholder who owns 5%.
- LLC, LLP** – List each member

- NAME (Last name, First name, M.I.)
- 1) _____
 - 2) _____
 - 3) _____
 - 4) _____

- NAME (Last name, First name, M.I.)
- 5) _____
 - 6) _____
 - 7) _____
 - 8) _____



4.

Does/has the Business or Organization:

- A. Ever filed bankruptcy in any state? Yes No
- B. Been delinquent in payment of taxes in any state? Yes No
- C. Been sued, with judgment resulting in current outstanding claims in any state? Yes No
- D. Ever operated under different business name? Yes No
- E. Been subject of state or federal criminal investigation or background investigation? Yes No
- F. Been denied lottery/gaming license in any state or province? Yes No
- G. Have financial interest in a company related to gaming/racing or lottery other than this business? Yes No
- H. Hold lottery/gaming license in other states or provinces? Yes No

5. How long has this Business/Organization been in operation? Yrs. Mos.

6. Bank Name _____ Account Number _____

Address _____ Phone No. _____

7. Are all taxes, fees and obligations to local, state and federal governments current? Yes No
(If No, attach explanation.)

8.

9. DISCLOSURE STATEMENT (Read Carefully)

"I, the undersigned, upon oath, do hereby declare that the foregoing information is true and complete. I understand that the untruthful or misleading answers are cause for denial of the application and/or termination of any lottery license granted, and may be subject to prosecution under the State Lottery Act, Chapter 29, Article 22B, of the West Virginia Code. I authorize the Director, WEST VIRGINIA LOTTERY, to investigate any matter set forth in the lottery application including, but not limited to, financial records, financial sources, Federal Tax records, State Tax records and criminal history as necessary for entering into an agreement as a limited video lottery operator. I will, upon request, execute such additional documents as are required to facilitate this process, including a criminal record check agreement form." I further certify that I am an owner, officer, executive, key personnel, employee, or agent having the power to exercise significant influence over decisions concerning any part of the applicant's business operation. Furthermore, I have the authority to sign and act for the Limited Video Lottery Operator making this application.

Type or Print Name

Title

Authorized Signature of Applicant

Date

STATE OF WEST VIRGINIA
COUNTY OF _____,

Taken, subscribed and sworn before me this _____ day of _____, 20_____.

Notary Signature: _____

My commission expires: _____.

SEAL:



Financial Disclosure Form
Corporation, Association, LLC, LLP, Trust
PLEASE PRINT OR TYPE – THIS FORM MAY COPIED AS NEEDED

1. Name of Corp. Assoc., Etc. DBA (Doing Business As)

2. Relationship to business: Owner _____ Officer _____ Executive _____ Key Personnel _____ Employee _____ Agent _____
Date of Incorporation: _____ State of Incorporation: _____

3. Primary Banking Institution for This Business/Organization

Bank Mailing Address: _____

Phone: _____
Fax: _____

4. Secondary Banking Institution

Bank Mailing Address: _____

Phone: _____
Fax: _____

5. List Names of Other Banking Institutions Used By This Business/Organization:

6. Business Credit References: (Names, Address, Phone and Fax Numbers)

- A.
- B.
- C.

(Print Name, Title) _____ (Signature) _____ (Date)

STATE OF WEST VIRGINIA
COUNTY OF _____,

Taken, subscribed and sworn before me this _____ day of _____, 20_____.

Notary Signature: _____

My commission expires: _____ SEAL:



**West Virginia Lottery Limited Video Lottery
Operator's Application
INDIVIDUAL AFFIDAVIT**

To Whom It May Concern:

I hereby authorize any representative of the West Virginia Lottery Commission bearing this release, or transmitting a copy of same, to obtain information from files or other sources pertaining to the applicant's personal background including, but not limited to: federal and/or state income tax records, police records, academic, athletic, medical, credit, or any other records. I hereby direct you to release such information upon the request of any duly authorized representative of the West Virginia Lottery. This release is executed with the full knowledge and understanding that the information is for the official use of the West Virginia Lottery. I hereby release you, the institution or establishment which you represent including its officers, employees, or related personnel, both individually and collectively, from any and all liability for damages of whatever kind, which may result to the applicant's heirs, family or associates because of compliance with this authorization and request to release information, or any attempt to comply with it. Should there be any question as to the validity of this release, you may contact me as indicated below.

(Circle One) I hereby swear or affirm that I **HAVE** or **HAVE NOT** been convicted of any violation of the State Racing Act, the State Lottery Act, the Racetrack Video Lottery Act, the Limited Video Lottery Act or the Limited Gaming Facility (Casino) Act, or of any felony related to theft, bribery, gambling, or involving moral turpitude in this or in any other state or foreign country. (Please attach any explanation if necessary.)

Additionally, I confirm that neither I, nor any member of my immediate family, is employed by the WV Lottery. I understand that any connection to employees of the WV Lottery should be disclosed above by the name of the WV Lottery Employee, and a description of the relationship.

Disclosure of WV Lottery Employee Relationship(s):

I understand that any untruthful or misleading answers are causes for the rejection of the application.

(Print Name, Title) (Signature) (Date)

STATE OF WEST VIRGINIA
COUNTY OF _____,

Taken, subscribed and sworn before me this _____ day of _____, 20_____.

Notary Signature: _____

My commission expires: _____ SEAL:



PERSONAL DATA AND FINANCIAL DISCLOSURE FORM

NOTE: PLEASE PRINT OR TYPE. This form is to be completed by all individuals listed on Page 1, item 3 of the application. (Owner, officer, executive, key personnel, employee or agent)

1. NAME _____ Maiden Name, Nickname, aka _____

HOME PHONE _____

HOME ADDRESS _____

DATE OF BIRTH _____

EMAIL _____

VALID DRIVER'S LICENSE NO. _____

STATE ISSUED _____

(Attach legible photocopy)

2. YOUR RELATIONSHIP BUSINESS: OWNER _____ PRINCIPAL _____ PARTNER _____

OFFICER/DIRECTOR _____ AGENT _____ OTHER _____ (Please Identify)

DATE OF INCORPORATION _____ STATE OF INCORPORATION _____

IF PARTNERSHIP, WHAT TYPE: LIMITED _____ GENERAL _____

IF PARTNERSHIP, % OWNED _____ IF STOCKHOLDER, % OF STOCK HELD _____

3. PRESENT EMPLOYER: _____

4. U.S. CITIZEN: YES _____ NO _____ (If No, attach details)

WV RESIDENT PAST 4 YRS. YES _____ NO _____

5. BUSINESS CREDIT REFERENCES (List Name, Address, Phone and Fax Numbers)

- 1.
- 2.
- 3.

THIS FORM MAY BE COPIED AS NECESSARY

(Print Name, Title)

(Signature)

(Date)

STATE OF WEST VIRGINIA
COUNTY OF _____,

Taken, subscribed and sworn before me this _____ day of _____, 20_____.

Notary Signature: _____

My commission expires: _____ SEAL:



PRIVACY NOTICE USAGE OF SOCIAL SECURITY NUMBERS

This form is included to notify you of our privacy practices and no action is required on your part.

With the exception of Lottery Commissioners, Lottery officers or Lottery employees, the West Virginia Lottery will only ask you for your social security number in the following circumstances:

1. You claim a lottery prize of \$600 or more directly from the Lottery, either by mail or personally at our Charleston or Weirton office. Your social security number is also your tax identification number, and the Internal Revenue Code requires that this prize payment be reported to the IRS along with the winner's tax identification number [Form **W-2G**]¹ or
2. You are a sole proprietor of a business, a partner in a business, or the shareholder of an incorporated business that is a lottery retailer or sales agent, and the Lottery must prepare an IRS [Form **1099**] to report sales commissions received by you along with a tax identification number if that number is also a social security number [Form **1099**]; or
3. You are applying for a lottery license or permit and you must allow the Lottery to capture your fingerprint images to be transported to the FBI's National Criminal Information Center [**NCIC**] for criminal background investigation required by statutory or regulatory authority. This is an FBI requirement; or
4. You have applied for a lottery license or permit and you have been asked to send copies of one or more years of your federal income tax returns in order to determine your credit worthiness for a table games license.²

Disclosure of your social security number should only be made if obtained from you in accordance with Section 7 of the Privacy Act of 1974. Your disclosure is voluntary and failure to provide the number will not subject you to a criminal or civil penalty.

When the West Virginia Lottery obtains your social security number, it will use the number for the purpose(s) cited above. The Lottery will not sell or share this number with any other person or entity, and will decline to make it available in response to any freedom of information request. Only government entities that are authorized to receive and use social security numbers by law will gain access, other than when outside access is ordered by a competent court of record.

If you have any questions or concerns about this privacy notice, or if you wish to submit a complaint regarding the Lottery's privacy policy, please contact our Legal Division at 304-558-0500 Ext 255.

¹ Prize winners of more than \$600 who are unable or unwilling to submit their tax identification number are subject to federal income tax "back-up withholding" of 28% of the prize money.

² Either after the license is issued to the applicant, or else after the applicant has exhausted all appeals, the returns will be taken from the application file and shredded.



Fingerprint Information – All fields are mandatory unless otherwise noted

Name (Please Print): Last Name First Name Middle Name SSN:

Alias (Maiden name) Citizenship (country):

Home Address: _____
Street Address

City, State, Zip Code

Business Name

Street Address

City, State and Zip Code

Date of Birth: Place of Birth:

Gender: Race: Height: Weight: Eye Color: Hair Color:

Finger Amputations/Bandages:

RELEASE OF INFORMATION

I hereby request a record check be made to find any police record on the herein named individual and by submitting this request, I understand that the submitted information will be retained by the West Virginia State Police in the Automated Fingerprint Identification System.

I certify that this is for official business and I am authorizing the West Virginia Lottery to obtain any record found.

Applicant Notification and Record Challenge: Your fingerprints will be used to check the criminal history records of the FBI. You have the opportunity to complete or challenge the accuracy of the information contained in the FBI identification record. The procedure for obtaining a change, correction, or updating an FBI identification record are set forth in Title 28, CFR, 16.34.

Privacy Act Notice: Disclosure of your social security number should only be made if obtained from you in accordance with Section 7 of the Privacy Act of 1974. Your disclosure is voluntary and failure to provide the number will not subject you to penalty. If you choose voluntarily to supply your social security number, it will be used to aid the West Virginia Lottery in the conduct of this criminal background inquiry.

Signature: _____

I attest that all information written on this form is true and correct.

Date:

ID CHECKED AND VERIFIED **INITIALS OF INVESTIGATOR** _____

OCA#