

**\*\*\* DRAFT – NOT FOR FILING \*\*\***

3770:2-3-01 Video lottery licenses; application.

(A) Application for a video lottery license shall be submitted in accordance with ~~procedures, processes, requirements and/or and conditions which may include but may not be limited to bidding procedures~~ set by the director and shall be made on a form approved by the director. At a minimum, and without limitation, an application for a video lottery license shall require compliance with licensing requirements for a lottery sales agent under section 3770.05 of the Revised Code and Chapter 3770-2 of the Administrative Code, and shall include the following requirements which a video lottery applicant must provide at the time of submission of the application or agree to comply with should a video lottery license be issued.

- (1) A video lottery applicant must submit the video lottery applicant's legal name, form of entity, the names, addresses, employer identification numbers or social security numbers (if applicable) and dates of birth (as applicable) of its video lottery principals. Disclosure of any criminal charges or convictions of all individuals or entities whose names must be provided must also be included in the application;
- (2) A video lottery applicant must submit to the commission an application fee in the amount set forth in rules promulgated by the commission under division 3770:2-44 of the Administrative Code;
- (3) A video lottery applicant must submit proof, in a form required by the director, that the video lottery applicant is a permit holder. If more than one permit holder conducted horseracing meetings at a track during the previous year, the permit holders shall designate, by a written agreement, to be submitted prior to issuance of a video lottery license, one permit holder to be the actual video lottery sales agent in the event a video lottery license is issued;
- (4) A video lottery applicant must submit, in a form acceptable to the director, its proposed business plan for video lottery at its facility, which may require the inclusion of documents relating to an applicant's borrowing or financing of video lottery operations including but not limited to the payment of licensing fees. A business plan may be deemed a trade secret under 1333.61(D) of the Revised Code and therefore may not be subject to disclosure under section 149.43 of the Revised Code;
- (5) A video lottery applicant must agree to provide, in a form and by a date acceptable to the director, its proposed security and surveillance plan for approval by the director or director's designee. A security and surveillance plan may be deemed an infrastructure record and/or security record as set forth in section 149.433 of the Revised Code and therefore may not subject to disclosure under section 149.43 of the Revised Code;

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- (6) For the period of time established or required by the director, a video lottery applicant must provide a listing of any and all gaming licenses, registrations or certifications obtained by the video lottery applicant, including the type of license, registration, or certification, date of issuance, date of suspension, termination, expiration or cancellation, if suspended, terminated, expired or cancelled, and the reason for suspension, termination, expiration or cancellation, and the date of assessment, imposition or payment of any penalties or fines;
- (7) If and as required by the director, a video lottery applicant must agree to submit to criminal and financial background checks and reviews of the video lottery applicant or its video lottery principals, or any other persons affiliated with the video lottery applicant or video lottery sales agent who the director determines should be required to submit to a criminal or financial background check. Background and financial checks and reviews for institutional investors who are video lottery principals may be required as deemed necessary by the director;
- (8) Within the time specified by the director, a video lottery applicant must, in a form acceptable to the director, obtain a dedicated non-revocable letter of credit, a surety bond, financial guarantee or other alternative form of credit approved by the director in an amount determined by the director, ~~but in a minimum amount of two million dollars to ensure payment of funds due the commission.~~ In addition, the director may require a video lottery applicant to submit evidence of the ability to obtain general liability insurance, workers compensation coverage, property insurance in amounts required by the director, and any other insurance or bonds deemed necessary by the director;
- (9) If required by the director, a video lottery applicant must submit a signed indemnification agreement in a form approved by the director;
- (10) An applicant must agree to provide, at times requested by the lottery, a written schedule that lists the installed cost of all fixtures and equipment supplied or to be supplied in connection with video lottery conducted at the video lottery sales agent's facility approved for video lottery sales;
- ~~(11) Unless the director determines, based on documentation provided by a video lottery sales agent, that the within stated goals cannot be met, an applicant must agree to set a goal to award not less than fifty percent of the contracts associated with the necessary capital improvements and goods and services related to ongoing operations for the facilities at which video lottery terminals are located to Ohio-based businesses, and set a goal to see that not less than fifty percent of the subcontracts of those contracts are awarded to Ohio-based businesses;~~
- ~~(12) Unless the director determines, based on documentation provided by a video lottery sales agent, that the within stated goals cannot be met, an applicant must agree to set a goal to see that not less than five percent of subcontracts described~~

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in division (B)(11) of this section are awarded to Ohio-based businesses that are EDGE enterprises in accordance with executive order 2008-13S;

~~(13) Unless the director determines, based on documentation provided by a video lottery sales agent, that the within stated goals cannot be met, an applicant must agree to set a goal to see that not less than ten percent of subcontracts described in division (B)(11) of this section are awarded to Ohio-based businesses that are MBE enterprises in accordance with executive order 2008-13S;~~

~~(14) An applicant must agree to set a goal that not less than fifty percent of the personnel employed by the applicant to perform duties related to video lottery gaming will be residents of the county where the facility at which video lottery terminals is located or of an Ohio county adjacent to that county;~~

~~(15) An applicant must agree to provide the lottery with an annual report relative to the goals set forth in divisions (B)(11) to (B)(14) of this section;~~

~~(1611) A video lottery applicant must agree that video lottery terminals shall be located at the premises of the permit holder licensed by the racing commission to conduct live horse racing for profit at a racing meeting, which includes premises contiguous or adjacent to those premises, except that, in the event that the Ohio racing commission, pursuant to its statutory authority, grants a permit holder, who is located on property owned by a political subdivision, a permit to conduct live horse racing for profit at a racing meeting at a location at which horse racing meetings have not previously been conducted. If approved by the director, a video lottery sales agent may locate video lottery terminals, sell video lottery and engage in any other authorized video lottery activity at a facility located on the premises where live horse racing for profit at a racing meeting will be conducted, including premises contiguous or adjacent to those facilities, while the new horse track is being constructed or otherwise prepared even if live horse racing for profit at a racing meeting has not yet started at the new horse track;~~

~~(1712) A video lottery applicant must agree to purchase or lease, maintain and timely repair video lottery terminals, and a video lottery applicant must agree that video lottery terminals will only be purchased or leased from the director's a list of approved technology providers; licensed by the director;~~

~~(1813) A video lottery applicant must agree to provide for a clearly identifiable separation between the video lottery area and the racing wagering area. Unless otherwise approved by the director, no individual under twenty one years of age shall be in the video lottery area, except for employees or agents of the video lottery sales agent or the lottery who are in the video lottery area for an authorized business purpose;~~

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~~(1914)~~ An applicant must agree to make, maintain and repair necessary capital improvements for facilities at which video lottery terminals are located in accordance with standards set forth by the director. ~~-and timetables set forth in rules promulgated by the commission under division 3770:2 of the Administrative Code, and agrees to make and adhere to minimum levels of investments and improvements into the video lottery facility in amounts set forth in rules promulgated by the commission under division 3770:2 of the Administrative Code;~~

(2015) A video lottery applicant must agree that any hardware or software installed to facilitate redemption of credit vouchers shall be the video lottery sales agent's responsibility;

(2116) A video lottery applicant must agree to be responsible for the costs associated with providing technology providers and other personnel designated by the director, sufficient space, as determined by the director, at the facility, where video lottery terminals are located, to allow technology providers and other personnel designated by the director to store equipment and conduct service, repairs and maintenance of video lottery terminals, video lottery central monitoring system and peripherals associated therewith necessary to ensure continued operation of the video lottery central monitoring system and video lottery terminals;

(2217) A video lottery applicant must agree to timely report to the director, or the director's designee, any malfunction of the video lottery terminals or associated equipment, or failures of the technology providers to promptly service, repair or deliver video lottery terminals when such malfunctions or failures are reported to, made known to or observed by a video lottery sales agent;

(2318) A video lottery applicant must agree to allow the lottery and its designated agents access to the video lottery facility and records for audits authorized under section 3770.06 of the Revised Code and for any other purposes deemed necessary by the director;

(2419) A video lottery applicant must agree that all funds due to the lottery shall be transferred to the lottery by electronic fund transfer, or other method as approved by the director on the days and times set forth in the schedule or schedules issued by the director; and

(2520) A video lottery applicant must agree that payments of video lottery winnings to video lottery participants, and required withholdings, if applicable, will be handled in accordance with procedures as approved by the director.

(B) As deemed necessary by the director, the director may amend the application and require video lottery applicants and/or video lottery sales agents to supplement or complete an amended application. Further, all information required to be submitted

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as part of an application for a video lottery license pursuant to division 3770:2 of the Administrative Code must be updated or supplemented if updates or changes occur following the submission of an application. In the event that updated or supplemental information is required by or received by the lottery, the director maintains discretion to suspend, revoke or reconsider an application or otherwise modify the conditions of the issuance of a license. In the event that the director takes action in connection with any updated or supplemental information received by the lottery, the director will adhere to required notices and procedures regarding any suspensions, revocation, reconsideration or modification of an application or the issuance of a license.

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3770:2-3-07 Video lottery licenses; renewal.

- (A) An application to renew a video lottery license must be filed on a form approved by the director and shall be subject to review and approval by the director in accordance with the Lottery Act, rules, regulations, policies, orders and directives adopted, promulgated or issued by the commission or the director.
- (B) Annually the license renewal process shall consist of a certification by the video lottery sales agent that there have been no changes determined by the director to be material to any information provided in connection with the video lottery sales agent's application, renewal applications or any other supplements thereto. Every three years, a video lottery sales agent shall be required to resubmit a complete video lottery sales agent application in the manner and form as required by the director.
- (CB) An application to renew a video lottery license must be filed on or before the date established by the director for renewal, unless submission of a late renewal application is approved by the director.
- (CD) At the time of submission of an application to renew a video lottery license, a video lottery agent shall submit any fees as required in rules promulgated by the commission under division 3770:2 of the Administrative Code.
- (DE) Any renewal license shall be subject to suspension, modification, revocation or fine as required by the Lottery Act, rule, regulation, policy order or directives adopted, promulgated or issued by the commission or the director.

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3770:2-3-08

**Video lottery licenses; compensation, credits and reimbursement of expense.**

- (A) Commission. Each video lottery sales agent shall receive a commission of sixty-six and one-half percent (66.50%) ~~at a rate set forth in rules promulgated by the commission under division 3770:2 of the Administrative Code~~ which shall be calculated as a percentage of video lottery terminal income. The director shall establish procedures for the payment of commissions due to video lottery sales agents. The procedures established by the director pursuant to this rule shall include but not be limited to procedures for calculation of financial adjustments. In connection with the sale of lottery tickets by a video lottery sales agent, other than video lottery tickets, a video lottery sales agent shall be paid commissions pursuant to rule 3770-4-09 of the Administrative Code.
- (B) Unclaimed credit vouchers. Funds available as unclaimed credit vouchers, as determined by the director, shall be owed to the commission in accordance with procedures established by the director.
- (C) Value credits. As authorized by the director, a video lottery sales agent, may offer value credits to video lottery participants in amounts approved by the director. In the event that a video lottery sales agent offers value credits in excess of value credits approved by the director to be offered, the video lottery sales agent shall be financially responsible for payment to the commission for the value of the credits.
- (D) Reimbursement of expense. The director may establish procedures for reimbursement of expenses properly incurred by a video lottery sales agent as authorized by the director.

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3770:2-6-04

**Video lottery operations; transportation, relocation, installation  
and certification of video lottery terminals.**

Activity relating to or occurring in connection with video lottery terminals shall be performed in accordance with and in a manner approved by the director.

- (A) Transportation of video lottery terminals. Prior to transportation of a video lottery terminal within or out of the state, the video lottery sales agent and/or technology providers shall provide ~~prior notification to and approval by the director.~~ Notification ~~and required approvals shall be provided and obtained in a manner determined by the director to be acceptable.~~
- (B) Relocation and installation of video lottery terminals within a video lottery sales agent's facility. As required by the director, a video lottery sales agent shall provide the lottery with an updated video lottery terminal floor plan which sets forth the number of video lottery terminals, the names of the video lottery terminal providers (and the number of video lottery terminals provided by each different video lottery terminal provider), and the location of each video lottery terminal.—~~The director reserves the right to require the video lottery sales agent to reconfigure the location or type of video lottery terminals at a video lottery sales agent's facility.~~
- (C) Certification. All certifications required by the lottery for video lottery terminals and video lottery games must be provided and must occur in accordance with rule 3770:2-5-01 of the Administrative Code and any other required procedures and any required certifications shall be in place prior to operation by the public of any video lottery terminal.

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3770:2-5-01      Technology providers.

- (A) Contracts. In addition to other contracts that the director may enter into for the operation and promotion of the lottery, including but not limited to video lottery games, the director may enter into contracts with technology providers for the operation and promotion of all aspects of video lottery and matters associated therewith in accordance with applicable laws. Contracts between the lottery and technology providers for the operation of all aspects of video lottery gaming and matters associated therewith shall include a requirement that video lottery principals and employees of the technology providers assigned to work on the lottery contract be subject to criminal background checks as required by the director. The director may, but is not required to, enter into a contract with a vendor or vendors to provide assistance with any certification and/or testing process deemed necessary by the director in connection with video lottery.
  
- (B) Certification of video lottery terminal providers. As it pertains to the video lottery terminals that video lottery sales agents are required to acquire, purchase, lease, maintain, and/or repair in connection with their video lottery license, the commission shall establish, through rules promulgated under division 3770:2 of the Administrative Code, procedures for certification of technology providers from whom video lottery sales agents may be eligible to enter into contracts with for the acquisition, purchase, lease, maintenance and/or repair of video lottery terminals. Once technology providers are certified as eligible to provide, maintain and/or repair video lottery terminals to or for a video lottery sales agent, the director shall add that technology provider's name and contact information on a list which shall be made available publicly to video lottery sales agents. The certification list shall be updated by the director as necessary. Procedures established for these purposes may require the payment of licensing fees, background checks and any other requirements deemed appropriate by the director.
  
- (C) A technology provider who has a contract with the lottery for a video lottery central monitoring system, may not, during the term of the contract, or any renewals thereof, be awarded a contract for the certification or testing of video lottery terminals or video lottery terminal providers, and may not be eligible to provide, maintain and/or repair video lottery terminals acquired by a video lottery sales agent while under contract with or for the benefit of the lottery for a video lottery central monitoring system.

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3770:2-5-01 Technology providers; independent testing.

(A) Approval of Independent Test Labs. The director shall establish and publish criteria and/or requirements that an interested independent test lab may be required to satisfy, submit or make available to the commission prior to consideration of or approval of independent test labs as being eligible to provide certification or testing services in connection with video lottery terminals, video lottery games and/or associated equipment. One or more independent test labs may be approved by the commission for selection by a technology provider or video lottery sales agent. Once approved, the approved independent test lab shall be added to the list of Ohio lottery commission approved video lottery independent test labs which shall be published by the commission. The director may remove an independent test lab from the approved list of independent test labs in accordance with the Ohio Administrative Procedures Act. Any required submissions shall be submitted on a form approved by the director. Such criteria or requirements may include but may not be limited to:

(1) An interested independent test lab may be required to provide the commission with access to its facility or facilities for inspection and review by the commission;

(2) An interested independent test lab may be required to agree that its video lottery principals, employees or other persons affiliated with the independent test lab will submit to criminal and/or financial background checks as required by the director. The results of any required criminal and/or financial background checks may be a factor in determining whether an independent test lab is eligible to provide certification services in connection with video lottery terminals, video lottery games and/or associated equipment.

(3) Payment of costs, if any, associated with a request to the commission to be approved and approval as an eligible independent test lab to provide certification services in connection with video lottery terminals, video lottery games and/or associated equipment.

(4) A minimum number of years of experience in testing video lottery terminals, video lottery games and/or associated equipment.

(5) Submission of evidence of any certifications, accreditations or proof of compliance with industry standards as required by the director.

(6) Submission of proof that the independent test lab is not owned or controlled by, or have any interest in, a technology provider or video lottery sales agent, or any other lottery or gaming related entity that the director determines would an unacceptable affiliation.

(7) An agreement by the independent test lab to indemnify and hold the Ohio lottery commission harmless from acts or omissions of the independent test lab.

(B) Selection of Approved Independent Test Lab. A technology provider or video lottery sales agent may only utilize those test labs that are approved and are included on

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the then current list of Ohio lottery commission approved video lottery independent test labs. The director may determine that the technology provider or video lottery sales agent is required to utilize more than one independent test lab to provide testing and certification services.

(C) Certification. Prior to operation by the public at a video lottery sales agent's facility, all video lottery terminals that are purchased, leased or otherwise acquired from a video lottery technology provider licensee, all video lottery games and all associated equipment shall be certified by an independent test lab approved by the director to provide testing and certification. In the event that there are modifications or updates to the software or hardware associated with a video lottery terminal, video lottery game or associated equipment, notification to the commission must be provided by the technology provider and/or a video lottery sales agent, and if required by the director, recertification of all or part of the software or hardware for that video lottery terminal, video lottery game or associated equipment will be required prior to continued operation by the public of that video lottery terminal. The director may authorize, without a requirement of recertification, disablement of a feature of the software or hardware for a video lottery terminal, video lottery game or associated equipment that has been modified or updated if certain features are not features available to the public. Testing, certification and recertification of video lottery terminals, video lottery games and associated equipment shall be conducted and provided in accordance with specifications and/or criteria approved by the director. The director may, but is not required to, establish standards for transfer of test results or certifications performed by an independent test lab in another gaming jurisdiction for a video lottery terminal, video lottery game and/or associated equipment being proposed for approval by the director and/or commission, as applicable. All test results must be submitted to the director.

(D) Prohibition. An approved test lab may not be awarded a contract with the lottery for a video lottery central monitoring system or be licensed as a technology provider to provide, maintain and/or repair video lottery terminals acquired by a video lottery sales agent.

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3770:2-5-02

Technology providers licenses; application.

(A) Application for a technology provider license. A video lottery terminal manufacturer, distributor or provider application for a technology provider license shall be submitted in accordance with procedures and/or conditions set by the director and shall be made on a form approved by the director. At a minimum, and without limitation, an application for a technology provider license shall include the following requirements which a video lottery terminal manufacturer, distributor, or provider must provide at the time of submission of the application or agree to comply with should a technology provider license be issued.

- (1) An applicant must submit its legal name, form of entity, the names, addresses, employer identification numbers or social security numbers (if applicable) and dates of birth (as applicable) of its video lottery principals. Disclosure of any criminal charges or convictions of all individuals or entities whose names must be provided must also be included in the application;
- (2) An applicant must submit to the commission an application fee in the amount set forth in rules promulgated by the commission under division 3770:2-11 of the Administrative Code.
- (3) An applicant must submit proof that it is registered to do business in Ohio, and shall provide the name and contact information for the principal contact for its business in Ohio;
- (4) For the period of time established or required by the director, a technology provider applicant must provide a listing of any and all gaming licenses, registrations or certifications obtained by the applicant, including the type of license, registration, or certification, date of issuance, date of suspension, termination, expiration or cancellation, if suspended, terminated, expired or cancelled, and the reason for suspension, termination, expiration or cancellation, and the date of assessment, imposition or payment of any penalties or fines;
- (5) If and as required by the director, an applicant must agree to submit to criminal and financial background checks and reviews of the applicant or its video lottery principals, or any other persons affiliated with the applicant or licensee who the director determines should be required to submit to a criminal or financial background check. Individual licenses may be required of persons affiliated with the applicant or licensee who the director determines should be required to hold an individual license. Individual licenses would be required to be obtained in accordance with applicable provisions of division 3770:2-4 of the Administrative Code.
- (6) If required by the director, an applicant must submit a signed indemnification agreement in a form approved by the director;

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- (7) Prior to operation of video lottery terminals, video lottery games and/or associated equipment, the applicant must agree that the video lottery terminals, video lottery games and/or associated equipment will have obtained the required certifications and/or tests from an independent test lab that is approved and included on the then current list of Ohio lottery commission approved video lottery independent test labs.
- (8) An applicant must agree that, it will provide test video lottery terminals and video lottery games to the video lottery central monitoring system provider with no additional costs to the lottery;
- (9) An video lottery applicant must agree to allow the lottery and its designated agents access to its hardware and software, facilities and records for audits authorized under section 3770.06 of the Revised Code and for any other purposes deemed necessary by the director;
- (B) Amendments by the applicant prior to issuance. All information required to be submitted as part of an application for a technology provider license pursuant to division 3770:2-5 of the Administrative Code must be updated or supplemented if updates or changes occur prior to issuance of a license. In the event that updated or supplemental information is required by or received by the lottery, the director maintains discretion to suspend, revoke or reconsider an application or otherwise modify the conditions of the issuance of a license. In the event that the director takes action in connection with any updated or supplemental information received by the lottery, the director will adhere to required notices and procedures regarding any suspensions, revocation, reconsideration or modification of an application or the issuance of a license.

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3770:2-5-03

Technology providers licenses; application review process.

(A) Application review process. Upon receiving an application, the director shall review the application to determine if the applicant meets the requirements of the Lottery Act and the commission's rules and regulations pertaining to video lottery. The following factors may be considered during the application review process for determining whether an application for a technology provider license shall be granted or denied.

(1) The financial responsibility and security of the applicant, including the extent to which an has demonstrated its ability to manufacturer, distribute or provide video lottery terminals and/or video lottery games.

(2) The results of any criminal and/or financial background checks;

(3) Whether an applicant has failed to comply with a commission rule, regulation, policy, directive or order;

(4) Whether an applicant has failed to comply with another jurisdiction's lottery or gaming laws, rules, regulations, policies directives or orders;

(5) Whether the applicant or persons who will be involved in the applicant's business is affiliated with a technology provider or video lottery sales agent to be engaged in the operation of video lottery in the state, and if so affiliated, the nature of the affiliation;

(6) The extent to which the applicant has cooperated with the commission in the application process including but not limited to cooperation with criminal and financial background checks and reviews;

(7) Any other information that the director deems relevant to a determination regarding the applicant's ability to offer video lottery games for sale in accordance with the Lottery Act, rules, regulations, policies, directives and orders adopted, promulgated or issued by the commission or the director pertaining to video lottery gaming operations.

(B) Consideration of certification and/or licensure from other jurisdictions. If an applicant has been certified and/or licensed by another state lottery for the operation of video lottery, or another United States gaming jurisdiction, the director may, but is not required to, consider and rely upon any such certification and/or licensure.

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3770:2-5-04

**Technology providers licenses; issuance of license.**

- (A) Issuance of license. If after a review of an application and consideration of factors deemed relevant to the efficient and proper administration of video lottery, and provided that the director determines that an applicant has met the requirements for issuance of a technology provider license, the director may license an applicant as a technology provider on such terms and conditions, and for such length of time, deemed appropriate, including issuance of a temporary license.
- (B) Licensing fee. No technology provider license shall be issued until a licensing fee is submitted in the amount set forth in rules promulgated by the commission under division 3770:2-11 of the Administrative Code.
- (C) Non-transferability of license. A technology provider license is not transferable. If ownership or majority control of the technology provider changes, unless the director determines that a new application is not required, the new owner may apply to the director for a license pursuant to applicable rules and regulations.
- (D) Approval of video lottery games and terminals. Video lottery games provided by or sold by and video lottery terminals provided by or sold by a technology provider licensee to a licensed video lottery sales agent must be approved by the director, commission or commissioners, as applicable.
- (E) Authority to sell. A technology provider license, once issued, authorizes the sale of video lottery games and video lottery terminals to licensed video lottery sales agents to be installed and operated in accordance with application provisions of the Lottery Act, all rules regulations, policies and directives of the commission or director.
- (F) Compliance with the Lottery Act. Upon issuance of a technology provider license, a licensee shall be obligated to comply with the applicable provisions of the Lottery Act, all rules, regulations, policies and directives of the commission or director and all terms and conditions of the license as set forth in the application, or any amendments or modifications thereto. Failure to comply with any and all obligations required of a licensee may subject the license to suspension or revocation as set forth in rule 3770:2-3-06 of the Administrative Code, or to imposition of monetary penalties as set forth in rule 3770:2-3-07 of the Administrative Code. A temporary license, if issued, does not guarantee the issuance of a technology provider license and may be suspended or revoked at any time and for any reason without further notice and opportunity to be heard.
- (G) Number of licenses. There shall be no limit on the number of technology provider licenses issued.

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3770:2-5-05

Technology providers licenses; denial of license.

(A) Denial of license. If after a review of a technology provider application and consideration of any other factors deemed relevant to the efficient and proper operation of video lottery, the director determines that an applicant has not met the requirements for issuance of a technology provider license, the director may deny the application, or may request that the application be revised and reviewed for further consideration.

(B) Mandatory Refusal. In addition to the mandatory grounds for refusal in Divisions (C)(1) to (C)(5), (D)(1) to (D)(3) and (E)(1) to (E)(1) to (E)(2) of Section 3770.05 of the Revised Code, and except as provided below in section 3770:2-5-05(C) of the Administrative Code, in the event any of the following are determined by the director, an application for a technology provider license shall be denied:

(1) A determination that an applicant or persons who will be involved in video lottery operations in the state is known to be affiliated with a video lottery sales agent or independent test lab certified to provide testing services in the state which has been determined by the director to be an unacceptable affiliation and an applicant or a person who will be involved in video lottery in the state has refused to divest itself of the affiliation with the video lottery sales agent or independent test lab

(2) A determination that an applicant has made a misrepresentation regarding a fact material to an application or has failed to disclose information regarding a fact material to an application.

(3) A determination that an applicant or person who will be involved in video lottery operations in the state has been convicted of any other criminal violation which as determined by the director may negatively impact the integrity of the lottery.

(C) Criminal Background Check. The director may require an applicant, or any of its video lottery principals or any person who the director has determined should be subjected to a criminal background check that have been convicted of any of the offenses set forth in divisions (C)(1) to (C)(5) and (E)(1) to (E)(2) of section 3770.05 of the Revised Code to obtain an order from a court of competent jurisdiction to have the record of such offense sealed. If such an order is not obtained during the time specified by the director, the director may deny the video lottery application. If the record of an applicant, or any of its video lottery principals or any person who the director has determined should be subjected to a criminal background check reveals an offense listed in divisions (C)(1) to (C)(5) and (E)(1) to (E)(2) of Section 3770.05 of the Revised Code which is at least ten years old, the director may disregard the offense and may license the applicant.

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- (D) Right to hearing. When required to do so by the Administrative Procedure Act, the director shall afford a hearing to an applicant affected by a decision to deny an application for a technology provider license. Such hearings shall be conducted by the director or a hearing examiner designated by the director and shall comply with the requirements for adjudication hearings established in the Administrative Procedure Act.
- (E) Reapplication. If an application is denied, an applicant may reapply, but any subsequent application shall require submission of a new application and payment of a separate application fee and licensing fee, as applicable, and shall only be submitted after any waiting period for reapplication, if any established by the director, has expired.

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3770:2-5-06

Technology providers licenses; suspension or revocation.

(A) Suspension or revocation. A technology provider license may be suspended or revoked as set forth below:

(1) Non-compliance with Lottery Act, rules, regulations, policies, or directives. The director may suspend or revoke a license of a technology provider who does not comply with the Lottery act, all rules, terms and conditions, policies, orders and directives adopted, promulgated or issued by the commission or the director including but not limited to the following:

(a) Failure to pay any required licensing fee;

(b) Failure to maintain any required surety bond, dedicated non-revocable letter of credit, or other form of credit authorized or required by the director;

(c) Failure to maintain any insurance, coverage and/or bonds required by the director;

(d) Making a fraudulent representation in connection with a technology provider application or the technology provider licensee's conduct;

(e) Failure to maintain adequate and sufficient security for video lottery terminals or video lottery games provided in the state;

(f) Providing or participating in the installation of a video lottery game that has not been approved by the director or commission, as applicable;

(g) Providing or participating in the installation of devices for the sale of video lottery at a facility not approved for a video lottery license or providing or participating in the installation of devices for the sale of video lottery at a facility approved for a video lottery license other than video lottery terminals authorized and approved by the director for use in connection with video lottery;

(h) Failure to provide any required notice or failure to obtain any required approval prior to relocation or transportation of a video lottery terminal;

(i) Acting in a manner that impacts or has the likelihood of impacting the efficient operation or integrity of video lottery;

(j) Failure to adhere to all the terms and conditions as set forth in the licensing agreement, including any amendments or modifications thereto.

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- (2) The director may suspend or revoke a technology provider license if any person who the director has determined should be subjected to a criminal background check are convicted of any of the offenses set forth in divisions(C)(1) to (C)(5) and (E)(1) to (E)(2) of Section 3770.05 of the Revised Code, or any other criminal violation which as determined by the director may negatively impact the integrity of the lottery.
- (3) The director may suspend or revoke a license if, at any time after issuance of a technology provider license, the director determines that a licensee no longer meets the requirements and standards for issuance of a video lottery license as set forth in the Lottery Act, commission rules, regulations, policies, orders and directives adopted, promulgated or issued by the commission or the director.
- (B) Fines. Any suspension or revocation under this section may be in addition to or in lieu of the imposition of a fine under section 3770:2-5-07 of the Administrative Code.
- (C) Right to hearing. When required to do so by the Administrative Procedure Act, the director shall afford a hearing to a licensee affected by an order to suspend or revoke a license. Such hearings shall be conducted by the director or a hearing examiner designated by the director and shall comply with the requirements for adjudication hearings set out in the Administrative Procedure Act. The requirement of the Administrative Procedure Act that adjudication hearings be afforded prior to a final decision by the director to suspend or revoke a license may be waived under circumstances for reasons related to the public safety, convenience or trust which require immediate action. Further, as necessary for reasons related to public safety, convenience or trust which require immediate action, the director may order the immediate and indefinite disabling of all or a portion of the video lottery operations and/or removal of video lottery equipment at a video lottery sales agent's video lottery facility. The director, however, must continue to comply with the requirements of the Administrative Procedure Act in affording the licensee a subsequent opportunity for an adjudication hearing.
- (D) Re-application. If a technology provider's license is revoked, a licensee may reapply, but any subsequent application shall require submission of a new application and payment of a separate application fee and licensing fee, as applicable, and shall only be submitted after any waiting period for reapplication, if any, established by the director, has expired.

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3770:2-5-07

Technology providers licenses; fines.

- (A) Monetary fines. As determined by the director, monetary fines may be imposed upon a technology provider licensee who does not comply with the Lottery Act, all rules, regulations, terms and conditions, policies, orders and directives adopted, promulgated or issued by the commission or the director which may include but may not be limited to a determination that a video lottery sales agent has failed to comply with or violated any provisions set forth in rule 3770:2-5-06(A)(1) to (3) of the Administrative Code.
- (B) Suspension or revocation.. Any fines under this section may be in addition to or in lieu of a suspension or revocation under rule 3770:2-5-06 of the Administrative Code.
- (C) Schedule of fines. The director may establish a schedule of fines that may be imposed pursuant to the authority set forth herein. Said schedule, and any amendments or revisions thereto, shall be approved by the director and made available to video lottery sales agents prior to imposition of monetary fines hereunder. Nothing contained on a fine schedule established by the director for technology provider licensees shall mandate imposition of a fine, but in the event that fines are imposed, the technology provider fine schedule in effect at the time of the event leading to a determination that a fine shall be imposed, shall be applicable.
- (D) Right to hearing. When required to do so by the Administrative Procedure Act, the director shall afford a hearing to a technology provider licensee affected by an order imposing a fine. Such hearings shall be conducted by the director or a hearing examiner designated by the director and shall comply with requirements for adjudication hearings set out in the Administrative Procedure Act. The requirement of the Administrative Procedure Act that adjudication hearings be afforded prior to a final decision by the director to suspend or revoke a technology provider license may be waived under circumstances for reasons related to the public safety, convenience or trust which require immediate action. Further, as necessary for reasons related to public safety, convenience or trust which require immediate action, the director may order the immediate and indefinite disabling of all or a portion of the video lottery operations and/or removal of video lottery equipment at a video lottery sales agent's video lottery facility. The director, however, must continue to comply with the requirements of the Administrative Procedure Act in affording the technology provider licensee a subsequent opportunity for an adjudication hearing.

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3770:2-5-08 Technology providers licenses; renewal.

- (A) Form of application. All applications to renew a technology provider license must be filed on a form approved by the director and shall be subject to review and approval by the director in accordance with the Lottery Act, rules, regulations, policies, orders and directives adopted, promulgated or issued by the commission or the director.
- (B) License renewal process. Unless otherwise deemed necessary by the director, annually the license renewal process shall consist of a certification by the licensee that there have been no changes to any information provided in connection with the licensee's application, renewal applications or any other supplements thereto. Every five years, a licensee shall be required to resubmit a complete application in the manner and form as required by the director, if not otherwise specified in division 3770:2 of the Administrative Code.
- (C) Submission date. An application to renew a license must be filed on or before dates established by the director for submission of renewal applications, unless submission of a late renewal application is approved by the director.
- (D) Licensing renewal fee. No technology provider license shall be renewed until a renewal licensing fee in the amount set forth in rules promulgated by the commission under division 3770:2-11 of the Administrative Code are submitted.
- (F) Penalty. Any renewal license shall be subject to suspension, modification, revocation or fine as required by the Lottery Act, rule, regulation, policy order or directives adopted, promulgated or issued by the commission or the director.

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3770:2-5-09

Technology providers licenses; records, audits and inspection.

- (A) Examination of records. The lottery and the auditor of the state may at any time examine, inspect, test or access for any purposes all records, files, equipment and other documents, including but not limited to electronic, paper and computer records, files and other documents, video lottery terminals, and hardware and software used in connection with video lottery whether kept or maintained by the licensee, its affiliated companies, employees, representatives and/or other entity assisting the video lottery terminal manufacturer, distributor or provider licensee in the operation of video lottery in the state. Video lottery technology provider licensees shall ensure that such equipment, records, files and other documents are regularly maintained and up to date.
- (B) Inspection of facilities. A technology provider licensee shall allow inspections of the video lottery terminals or facilities at which a video lottery terminal manufacturer, distributor or provider licensee stores video lottery terminals at any time as authorized by the director. The inspection may be made without prior notice to the video lottery terminal manufacturer, distributor or provider licensee.