

**\*\*\*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 and 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 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 a licensing fee, if applicable, in the amount set forth in rules promulgated by the commission under division 3770:2 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 or has applied to be 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 division (D) of section 1333.61 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, including proposed standard operating procedures, 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 be subject to disclosure under section 149.43 of the Revised Code;
  - (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 required by the director, a video lottery applicant must agree to submit to background checks and reviews of the video lottery applicant, or the applicant's 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 checks and reviews for institutional investors who are the video lottery applicant's principals may be required as deemed necessary by the director;
    - (a) The director may determine that an institutional investor having an ownership interest in a video

**\*\*\*DRAFT - NOT FOR FILING\*\*\***

lottery applicant or licensee, directly or indirectly, of five per cent to fifteen per cent is not a video lottery principal as defined in paragraph (GG) of rule 3770:2-2-01 of the Administrative Code if the institutional investor submits to the director documentation sufficient to establish qualifications as an institutional investor and certifies in writing, all of the following:

- (i) The institutional investor owns, holds, or controls publicly traded securities issued by an applicant or licensee or holding, intermediate, or parent company of an applicant or licensee in the ordinary course of business for investment purposes only.
  - (ii) The institutional investor does not exercise influence over the affairs of the issuer of such securities nor over an licensed subsidiary of the issuer of such securities.
  - (iii) The institutional investor does not intend to exercise influence over the affairs of the issuer of such securities, nor over any licensed subsidiary of the issuer of such securities, in the future, and that it agrees to notify the director in writing within thirty days if such intent changes. The exercise of voting privileges with regard to publicly traded securities shall not be deemed to constitute the exercise of influence over the affairs of a licensee.
- (b) The director may rescind the determination that an institutional investor is not a video lottery principal under this paragraph at any time if the institutional investor exercises or intends to exercise influence or control over the affairs of the applicant or licensee.
- (c) This paragraph shall not be construed to preclude the director from requiring background checks and conducting reviews if the director becomes aware of facts or information that may result in the institutional investor being considered a video lottery principal.
- (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. 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) 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;
- (12) 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 a technology provider licensed by the director;
- (13) A video lottery applicant must agree to provide for a clearly identifiable separation between the video lottery area and the racing wagering area;

**\*\*\*DRAFT - NOT FOR FILING\*\*\***

- (14) 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 and timetables set forth by the director;
  - (15) 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;
  - (16) 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;
  - (17) 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;
  - (18) 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;
  - (19) 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
  - (20) 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 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.