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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT -- STATE LOTTERY

Introduced By: Senators Ciccone, Lombardi, McCaffrey, Felag, and Lynch Prata

Date Introduced: March 02, 2017

Referred To: Senate Special Legislation and Veterans Affairs

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 42-61 of the General Laws entitled "State Lottery" is hereby
2 repealed in its entirety.

3 ~~CHAPTER 42-61~~

4 ~~State Lottery~~

5 ~~**42-61-1. Division of state lottery established.**~~

6 ~~There is established a state lottery division within the department of revenue.~~

7 ~~**42-61-2. Repealed.**~~

8 ~~**42-61-3. Appointment of director of lotteries.**~~

9 ~~The lotteries shall be under the immediate supervision and direction of a director, who~~
10 ~~shall be a qualified person to administer an enterprise of the nature of a lottery. The director shall~~
11 ~~be appointed by the governor with the advice and consent of the senate. The appointment shall be~~
12 ~~reviewed or vetted by the permanent joint committee on state lottery according to Article 6~~
13 ~~Section 15 of the Rhode Island Constitution. The director shall serve until his or her successor is~~
14 ~~appointed and qualified. Any vacancy occurring in the office of the director shall be filled in the~~
15 ~~same manner as the original appointment. Pursuant to § 42-6-4, in the case of a vacancy while the~~
16 ~~senate is not in session, the governor shall appoint a director to hold the office until the next~~
17 ~~session thereof; provided, that no person should serve in such a position for more than three (3)~~
18 ~~legislative days after the senate convenes unless that person's name shall have been submitted to~~
19 ~~the senate for its approval. The director shall devote his or her entire time and attention to the~~

1 ~~duties of his or her office and shall not be engaged in any other profession or occupation. He or~~
2 ~~she shall receive any salary that the director of the department of revenue shall determine and~~
3 ~~shall be in the unclassified service.~~

4 ~~The director of lotteries shall be removable by the governor, pursuant to the provisions of~~
5 ~~§ 36-1-7 and for cause only, and removal solely for partisan or personal reasons unrelated to~~
6 ~~capacity or fitness for the office shall be unlawful.~~

7 ~~**42-61-4. Powers and duties of director.**~~

8 ~~The director shall have the power and it shall be his or her duty to:~~

9 ~~(1) Supervise and administer the operation of lotteries in accordance with this chapter,~~
10 ~~chapter 61.2 of this title and with the rules and regulations of the division;~~

11 ~~(2) Act as the chief administrative officer having general charge of the office and records~~
12 ~~and to employ necessary personnel to serve at his or her pleasure and who shall be in the~~
13 ~~unclassified service and whose salaries shall be set by the director of the department of revenue,~~
14 ~~pursuant to the provisions of § 42-61-3.~~

15 ~~(3) In accordance with this chapter and the rules and regulations of the division, license~~
16 ~~as agents to sell lottery tickets those persons, as in his or her opinion, who will best serve the~~
17 ~~public convenience and promote the sale of tickets or shares. The director may require a bond~~
18 ~~from every licensed agent, in an amount provided in the rules and regulations of the division.~~
19 ~~Every licensed agent shall prominently display his or her license, or a copy of their license, as~~
20 ~~provided in the rules and regulations of the committee;~~

21 ~~(4) Confer regularly as necessary or desirable, and not less than nine (9) times per year,~~
22 ~~with the permanent joint committee on state lottery on the operation and administration of the~~
23 ~~lotteries; make available for inspection by the committee, upon request, all books, records, files,~~
24 ~~and other information, and documents of the division; advise the committee and recommend~~
25 ~~those matters that he or she deems necessary and advisable to improve the operation and~~
26 ~~administration of the lotteries;~~

27 ~~(5) Suspend or revoke any license issued pursuant to this chapter, chapter 61.2 of this title~~
28 ~~or the rules and regulations promulgated under this chapter and chapter 61.2 of this title;~~

29 ~~(6) Enter into contracts for the operation of the lotteries, or any part of the operation of~~
30 ~~the lotteries, and into contracts for the promotion of the lotteries;~~

31 ~~(7) Ensure that monthly financial reports are prepared providing gross monthly revenues,~~
32 ~~prize disbursements, other expenses, net income, and the amount transferred to the state general~~
33 ~~fund for keno and for all other lottery operations; submit this report to the state budget officer, the~~
34 ~~auditor general, the permanent joint committee on state lottery, the legislative fiscal advisors, and~~

1 ~~the governor no later than the twentieth business day following the close of the month; the~~
2 ~~monthly report shall be prepared in a manner prescribed by the members of the revenues~~
3 ~~estimating conference; at the end of each fiscal year the director shall submit an annual report~~
4 ~~based upon an accrual system of accounting which shall include a full and complete statement of~~
5 ~~lottery revenues, prize disbursements and expenses, to the governor and the general assembly,~~
6 ~~which report shall be a public document and shall be filed with the secretary of state;~~

7 ~~(8) Carry on a continuous study and investigation of the state lotteries throughout the~~
8 ~~state, and the operation and administration of similar laws, which may be in effect in other states~~
9 ~~or countries;~~

10 ~~(9) Implement the creation and sale of commercial advertising space on lottery tickets as~~
11 ~~authorized by § 42-61-4 of this chapter as soon as practicable after June 22, 1994;~~

12 ~~(10) Promulgate rules and regulations, which shall include, but not be limited to:~~

13 ~~(i) The price of tickets or shares in the lotteries;~~

14 ~~(ii) The number and size of the prizes on the winning tickets or shares;~~

15 ~~(iii) The manner of selecting the winning tickets or shares;~~

16 ~~(iv) The manner of payment of prizes to the holders of winning tickets or shares;~~

17 ~~(v) The frequency of the drawings or selections of winning tickets or shares;~~

18 ~~(vi) The number and types of location at which tickets or shares may be sold;~~

19 ~~(vii) The method to be used in selling tickets or shares;~~

20 ~~(viii) The licensing of agents to sell tickets or shares, except that a person under the age~~
21 ~~of eighteen (18) shall not be licensed as an agent;~~

22 ~~(ix) The license fee to be charged to agents;~~

23 ~~(x) The manner in which the proceeds of the sale of lottery tickets or shares are~~
24 ~~maintained, reported, and otherwise accounted for;~~

25 ~~(xi) The manner and amount of compensation to be paid licensed sales agents necessary~~
26 ~~to provide for the adequate availability of tickets or shares to prospective buyers and for the~~
27 ~~convenience of the general public;~~

28 ~~(xii) The apportionment of the total annual revenue accruing from the sale of lottery~~
29 ~~tickets or shares and from all other sources for the payment of prizes to the holders of winning~~
30 ~~tickets or shares, for the payment of costs incurred in the operation and administration of the~~
31 ~~lotteries, including the expense of the division and the costs resulting from any contract or~~
32 ~~contracts entered into for promotional, advertising, consulting, or operational services or for the~~
33 ~~purchase or lease of facilities, lottery equipment, and materials, for the repayment of moneys~~
34 ~~appropriated to the lottery fund;~~

1 ~~(xiii) The superior court upon petition of the director after a hearing may issue subpoenas~~
2 ~~to compel the attendance of witnesses and the production of documents, papers, books, records,~~
3 ~~and other evidence in any matter over which it has jurisdiction, control or supervision. If a person~~
4 ~~subpoenaed to attend in the proceeding or hearing fails to obey the command of the subpoena~~
5 ~~without reasonable cause, or if a person in attendance in the proceeding or hearing refuses~~
6 ~~without lawful cause to be examined or to answer a legal or pertinent question or to exhibit any~~
7 ~~book, account, record, or other document when ordered to do so by the court, that person may be~~
8 ~~punished for contempt of the court;~~

9 ~~(xiv) The manner, standards, and specification for a process of competitive bidding for~~
10 ~~division purchases and contracts; and~~

11 ~~(xv) The sale of commercial advertising space on the reverse side of, or in other available~~
12 ~~areas upon, lottery tickets provided that all net revenue derived from the sale of the advertising~~
13 ~~space shall be deposited immediately into the state's general fund and shall not be subject to the~~
14 ~~provisions of § 42-61-15.~~

15 ~~**42-61-5. Sales agents.**~~

16 ~~(a) For the purpose of this chapter, the term "person" shall be construed to mean and~~
17 ~~include an individual, association, partnership, corporation, trust, estate, company, receiver,~~
18 ~~trustee, referee, or other person acting in a fiduciary or representative capacity, whether appointed~~
19 ~~by a court or otherwise, and any combination of individuals. "Person" shall be construed to mean~~
20 ~~all departments, committees, commissions, agencies, and instrumentalities of the state, including~~
21 ~~counties and municipalities and agencies and instrumentalities of the state.~~

22 ~~(b) (1) The director of lotteries may license any person as a lottery sales agent as~~
23 ~~provided in this chapter. No license shall be issued to any person to engage in the sale of lottery~~
24 ~~tickets as his or her sole occupation or business.~~

25 ~~(2) As part of its investigation as to whether to issue a lottery sales agent license, the~~
26 ~~Rhode Island lottery shall require criminal background checks of the applicant for a retail sales~~
27 ~~agent license as it deems appropriate and said individuals shall apply to the bureau of criminal~~
28 ~~investigation of the Rhode Island state police or the Rhode Island department of the attorney~~
29 ~~general for a national criminal records check with fingerprinting. The applicant whose criminal~~
30 ~~records check is being conducted shall be responsible for the payment of the costs of said~~
31 ~~criminal records check. The Rhode Island state police or the Rhode Island department of attorney~~
32 ~~general, as applicable, shall send the results of such criminal records check to the Rhode Island~~
33 ~~lottery. Once said results are sent to and received by the Rhode Island lottery, the Rhode Island~~
34 ~~state police and the Rhode Island department of attorney general shall promptly destroy said~~

1 ~~fingerprint record(s). On or before February 1, 2011, the agency shall adopt rules and regulations~~
2 ~~establishing criteria to be used in determining whether based upon a criminal records check an~~
3 ~~application will be approved.~~

4 ~~(c) Before issuing any license to a lottery sales agent the director shall consider:~~

5 ~~(1) The financial responsibility and security of the person and his or her business or~~
6 ~~activity;~~

7 ~~(2) The accessibility of his or her place of business or activity to the public;~~

8 ~~(3) The sufficiency of existing licensed agents to serve the public interest;~~

9 ~~(4) The volume of expected sales by the applicant;~~

10 ~~(5) Any other factors pertaining to the public interest, convenience or trust.~~

11 ~~(d) The director shall refuse to grant or shall suspend, pending a hearing before the~~
12 ~~division, or recommend a revocation of a license if the applicant or licensee:~~

13 ~~(1) Has been convicted of a felony, or any crime involving moral turpitude;~~

14 ~~(2) Has been engaging in gambling as a significant source of income;~~

15 ~~(3) Has been convicted of violating any gambling statutes;~~

16 ~~(4) Has been convicted of fraud or misrepresentation in any connection;~~

17 ~~(5) Has been found to have violated any rule, regulation, or order of the state lottery~~
18 ~~division.~~

19 ~~The license of an agent shall be suspended by the director for any charge which may~~
20 ~~result in a conviction for conduct prescribed in subdivisions (d)(1) — (d)(5); which suspension~~
21 ~~shall be effective until a final judicial determination.~~

22 ~~(e) The director shall refuse to grant, or shall suspend, pending a hearing before the~~
23 ~~division, or recommend revocation of a license if the applicant or licensee is a corporation:~~

24 ~~(1) Any of whose directors, officers, or controlling shareholders have been found guilty~~
25 ~~of any of the activities specified in subsection (d);~~

26 ~~(2) In which it appears to the director of lotteries that due to the experience, character, or~~
27 ~~general fitness of any director, officer, or controlling shareholder, the granting of a license as a~~
28 ~~lottery sales agent would be inconsistent with the public interest, convenience, or trust;~~

29 ~~(3) Not the owner or lessee of the business at which it will conduct a lottery sales agency~~
30 ~~pursuant to the license applied for, or that any person, firm, association, or corporation other than~~
31 ~~the applicant shares or will share in the profits of the applicant, other than receiving dividends as~~
32 ~~a shareholder, or will participate in the management of the affairs of the applicant.~~

33 ~~(f) Every holder of a license as a lottery sales agent shall renew the license annually~~
34 ~~pursuant to the rules and regulations of the division. Licensees shall pay to the division a fee to be~~

1 ~~determined by the director upon receipt or renewal of a license.~~

2 ~~(g) Whenever requested by the director, the division of criminal identification of the~~
3 ~~department of the attorney general, the superintendent of state police, any superintendent or chief~~
4 ~~of police or sergeant of any city or town, shall furnish all information on convictions, arrests and~~
5 ~~present investigations concerning any person who is an applicant for a license or who is a licensee~~
6 ~~of the state lottery.~~

7 ~~(h) Notwithstanding any other provision of law, any person licensed as provided in this~~
8 ~~chapter is authorized and empowered to act as a lottery sales agent.~~

9 ~~(i) Every licensed sales agent authorized pursuant to this section and every licensed,~~
10 ~~video lottery retailer authorized by chapter 61.2 of this title shall keep conspicuously posted on~~
11 ~~his or her premises the name and telephone number of a council on problem gambling recognized~~
12 ~~by an appropriate authority within state government or within the professional field of addiction~~
13 ~~disorders and a statement of its availability to offer assistance. The lottery division shall supply~~
14 ~~each licensee with the required notice.~~

15 ~~**42-61-6. Proceeds of sales -- Segregated funds.**~~

16 ~~(a) All proceeds from the sale of lottery tickets or shares received by a person in the~~
17 ~~capacity of a sales agent shall constitute a trust fund until paid into the state lottery fund.~~

18 ~~(b) The sales agent shall be personally liable for all proceeds; and failure to pay the~~
19 ~~lottery division moneys owed, upon demand, from the sales or misappropriation of the funds shall~~
20 ~~constitute embezzlement under § 11-41-3.~~

21 ~~(c) The provisions of this section shall be enforced and prosecuted by the state police and~~
22 ~~the attorney general's office.~~

23 ~~**42-61-6.1. Repealed.**~~

24 ~~**42-61-6.2. Insolvency of sales agent.**~~

25 ~~Whenever any person who receives proceeds from the sale of lottery tickets in the~~
26 ~~capacity of a sales agent becomes insolvent, or dies insolvent, the proceeds due the state lottery~~
27 ~~from that person or his or her estate shall have preference over all other debts or demands, except~~
28 ~~as follows:~~

29 ~~(1) Those due for necessary funeral charges;~~

30 ~~(2) Those due for attendants and medicine during his or her last sickness;~~

31 ~~(3) Those debts due to the United States;~~

32 ~~(4) Those debts due to this state and all state and town taxes; and~~

33 ~~(5) Wages of labor performed within six (6) months next prior to the death of the~~
34 ~~deceased person, not exceeding one thousand dollars (\$1000) to any one person and provided~~

1 further that the proceeds shall be non-dischargeable in insolvency proceedings instituted pursuant
2 to chapters 7, (11 U.S.C. § 701 et seq.), 11, (11 U.S.C. § 1101 et seq.), and 13 (11 U.S.C. § 1301
3 et seq.) of the Federal Bankruptcy Act and to any act of the Congress of the United States or
4 proceedings pursuant to the general laws of the state.

5 **42-61-7. Assignment of prizes.**

6 No right of any person to a prize drawn shall be assignable, except that payment of any
7 prize drawn may be paid to the estate of a deceased prize winner, and except that any person
8 pursuant to an appropriate judicial order may be paid the prize to which the winner is entitled.
9 The director shall be discharged of all further liability upon payment of a prize pursuant to this
10 section.

11 **42-61-7.1. Payment of prizes in excess of six hundred dollars (\$600) -- Setoff for**
12 **child support debts and benefit of overpayments.**

13 Notwithstanding the provisions of § 42-61-7 relating to assignment of prizes, the
14 following setoff provisions shall apply to the payment of any prizes or winning ticket in excess of
15 six hundred dollars (\$600).

16 (1) With respect to a person entitled to receive the prize or winning ticket who has an
17 unpaid child support order(s) arrearage(s) in excess of five hundred (\$500), as provided by the
18 department pursuant to § 42-61-7.1(3), or owes any sum in excess of five hundred dollars (\$500)
19 for benefit overpayments and interest to the department of labor and training determined to be
20 recoverable under the provisions of chapters 39—44 of title 28, the lottery director:

21 (i) Shall set off against the amount due to that person after state and federal tax
22 withholding an amount up to the balance of the child support arrearage(s), and benefit
23 overpayments and interest owed to the department of labor and training, and the director shall
24 make payment of this amount directly to the Rhode Island family court in the case of child
25 support arrearage(s) which shall deposit the amount set off into the registry of the family court for
26 a period of forty five (45) days, or if an application for review has been filed pursuant to § 27-57-
27 1(d), until final disposition of the application until further order of the court and in the case of
28 benefit overpayments and interest owed the director shall transfer the amounts owed to the
29 department of labor and training; and

30 (ii) Shall pay to this person the remaining balance of the prize or winning ticket amount,
31 if any, after reduction of the amount set off above for child support and benefit overpayments and
32 interest owed. If any instance, the lottery director has received notice from more than one
33 claimant agency, the claim for child support arrearage(s) by the department of human services
34 shall receive first priority and the claim for benefit overpayments and interest owed by the

1 ~~department of labor and training the second priority.~~

2 ~~(2) The director shall be discharged of all further liability upon payment of a prize or~~
3 ~~winning ticket pursuant to this section.~~

4 ~~(3) The department of human services shall periodically within each year furnish the~~
5 ~~director with a list or compilation of names of individuals, together with any other identifying~~
6 ~~information and in a form that the director shall require, who as of the date of the list or~~
7 ~~compilation, have an unpaid child support order arrearage in excess of five hundred dollars~~
8 ~~(\$500) as shown on the Rhode Island family court degrees department of human services child~~
9 ~~support enforcement computer system ("CSE system"). For the purposes of this section, the terms~~
10 ~~used in this section shall be given the meaning and definitions specified in § 15-16-2.~~

11 ~~(4) Any party aggrieved by any action taken under this section may within thirty (30)~~
12 ~~days of the withholding of the payment by the lottery director seek judicial review in the family~~
13 ~~court, in the case of withholding for child support or in the district court in the case of benefit~~
14 ~~overpayments and interest owed, which may, in its discretion, issue a temporary order prohibiting~~
15 ~~the disbursement of funds under this section, pending final adjudication.~~

16 ~~(5) The department of labor and training shall periodically within each year furnish the~~
17 ~~director with a list or compilation of names of individuals, together with any identifying~~
18 ~~information and in any form that the director requires, who as to the date of the list or~~
19 ~~compilation, have unpaid benefit overpayments and interest in excess of five hundred dollars~~
20 ~~(\$500) determined to be recoverable under the provisions of chapters 39—44 of title 28.~~

21 ~~{See § 12-1-15 of the General Laws.}~~

22 ~~**42-61-7.2. Payment of prizes in excess of six hundred dollars (\$600) -- Setoff for**~~
23 ~~**unpaid taxes.**~~

24 ~~Notwithstanding the provisions of § 42-61-7 and § 42-61-7.1 relating to assignment of~~
25 ~~prizes and setoff for child support debts and benefit overpayments, the following setoff provisions~~
26 ~~shall apply to the payment of any prizes or winning ticket in excess of six hundred dollars (\$600).~~

27 ~~(1) With respect to a person entitled to receive the prize or winning ticket who has unpaid~~
28 ~~taxes owed to the tax administrator in excess of six hundred dollars (\$600), as evidenced by the~~
29 ~~tax administrator pursuant to subdivision 42-61-7.2(3), the lottery director:~~

30 ~~(i) Shall setoff against the amount due to that person after state and federal tax~~
31 ~~withholding an amount up to the balance of the unpaid taxes owed as evidenced by the tax~~
32 ~~administrator pursuant to subdivision 42-61-7.2(3), and the director shall make payment of this~~
33 ~~amount directly to the tax administrator; and~~

34 ~~(ii) Shall pay to that person the remaining balance of the prize or winning ticket amount,~~

1 if any, after reduction of the amount setoff above for taxes owed. If in any instance, the lottery
2 director has received notice from more than one claimant agency, the claim for child support
3 arrearage(s) owed to the department of human services shall receive first (1st) priority, the claim
4 for benefit overpayments and interest owed to the department of labor and training the second
5 (2nd) priority, and the claim for taxes owed to the tax administrator the third (3rd) priority.

6 ~~(2) The director shall be discharged of all further liability upon payment of a prize or
7 winning ticket pursuant to this section.~~

8 ~~(3) The tax administrator shall periodically within each year furnish the director with a
9 list or compilation of names of individuals, together with any other identifying information and in
10 a form that the director shall require, who as of the date of the list or compilation, have unpaid
11 taxes in excess of six hundred dollars (\$600).~~

12 ~~(4) Any party aggrieved by any action taken under this section may, within thirty (30)
13 days of the withholding of the payment by the lottery director, seek a review with the tax
14 administrator, who may, in his or her discretion, issue a temporary order prohibiting the
15 disbursement of funds under this section, pending final decision.~~

16 ~~**42-61-8. Sales above fixed price -- Unlicensed sales -- Gifts.**~~

17 ~~No person shall sell a ticket or share at a price greater than that fixed by rule or regulation
18 of the division. No person other than a licensed lottery sales agent shall sell lottery tickets or
19 shares, except that nothing in this section shall be construed to prevent any individual purchaser
20 from giving lottery tickets or shares to another as a gift. Any person convicted of violating this
21 section shall be guilty of a misdemeanor.~~

22 ~~**42-61-9. Sales to minors -- Gifts.**~~

23 ~~No ticket or share shall be sold to any person under the age of eighteen (18) years, but
24 this shall not be deemed to prohibit the purchase of a ticket or share for the purpose of making a
25 gift by a person eighteen (18) years of age or older to a person less than that age. Any licensee
26 who knowingly sells or offers to sell a lottery ticket or share to any person under the age of
27 eighteen (18) shall, upon conviction, be guilty of a misdemeanor.~~

28 ~~**42-61-10. Prizes to lottery employees.**~~

29 ~~No lottery prize award shall be awarded to or for any officer or employee of the state
30 lottery division, or any blood relative of that officer or employee living as a member of that
31 officer or employee's household.~~

32 ~~**42-61-11. Unclaimed prize money.**~~

33 ~~Unclaimed prize money for the prize on a winning ticket or share shall be retained by the
34 director for the person entitled thereto for one year after the drawing in which the prize was won.~~

1 ~~If no claim is made for the money within that year, the prize money shall automatically revert to~~
2 ~~the lottery fund and the winner shall have no claim to the prize.~~

3 ~~**42-61-12. Deposit of receipts -- Reports.**~~

4 ~~The director shall, in accordance with rules and regulations, require any and all lottery~~
5 ~~sales agents to deposit to the credit of the state lottery fund in financial institutions designated by~~
6 ~~the division all moneys received by those agents from the sale of lottery tickets or shares, less the~~
7 ~~amount, if any, retained as compensation for the sale of tickets or shares and less any moneys~~
8 ~~paid out as prizes by the agents, and to file with the director, or his or her designated agents,~~
9 ~~reports of their receipts and transactions in the sale of lottery tickets in any form and containing~~
10 ~~any information he or she may require. The director may make any arrangements for any person,~~
11 ~~including a financial institution, to perform any functions, activities, or services in connection~~
12 ~~with the operation of the lottery as he or she may deem advisable pursuant to this chapter and the~~
13 ~~rules and regulations of the division, and the functions, activities, or services shall constitute~~
14 ~~lawful functions, activities, and services of the person.~~

15 ~~**42-61-13. Applicability of other laws.**~~

16 ~~No other law providing any penalty or disability for the sale of lottery tickets, or any acts~~
17 ~~done in connection with a lottery, shall apply to the sale of tickets or shares performed pursuant to~~
18 ~~this chapter.~~

19 ~~**42-61-14. Payment of prizes to minors and persons under legal disabilities.**~~

20 ~~(a) If the person entitled to a prize or any winning ticket is under the age of eighteen (18)~~
21 ~~years, the director shall direct payment to the minor by depositing the amount of the prize in any~~
22 ~~financial institution to the credit of a member of the minor's family or legal guardian of the minor~~
23 ~~as custodian for that minor. The person named as custodian shall have the same duties and~~
24 ~~powers as a person designated as a custodian in a manner prescribed by the "Rhode Island~~
25 ~~Uniform Gifts to Minors Act".~~

26 ~~(b) If a person entitled to a prize or any winning ticket is under any other legal disability,~~
27 ~~the director shall direct payment to a fiduciary responsible for that person pursuant to the laws of~~
28 ~~this state.~~

29 ~~(c) The director shall be relieved of all further liability upon payment of a prize to a~~
30 ~~minor or person under a legal disability pursuant to this section.~~

31 ~~**42-61-15. State lottery fund.**~~

32 ~~(a) There is created the state lottery fund, into which shall be deposited all revenues~~
33 ~~received by the division from the sales of lottery tickets and license fees. The fund shall be in the~~
34 ~~custody of the general treasurer, subject to the direction of division for the use of the division, and~~

1 ~~money shall be disbursed from it on the order of the controller of the state, pursuant to vouchers~~
2 ~~or invoices signed by the director and certified by the director of administration. The moneys in~~
3 ~~the state lottery fund shall be allotted in the following order, and only for the following purposes:~~

4 ~~(1) Establishing a prize fund from which payments of the prize awards shall be disbursed~~
5 ~~to holders of winning lottery tickets on checks signed by the director and countersigned by the~~
6 ~~controller of the state or his or her designee.~~

7 ~~(i) The amount of payments of prize awards to holders of winning lottery tickets shall be~~
8 ~~determined by the division, but shall not be less than forty five percent (45%) nor more than~~
9 ~~sixty five percent (65%) of the total revenue accruing from the sale of lottery tickets.~~

10 ~~(ii) For the lottery game commonly known as "Keno", the amount of prize awards to~~
11 ~~holders of winning Keno tickets shall be determined by the division, but shall not be less than~~
12 ~~forty five percent (45%) nor more than seventy two percent (72%) of the total revenue accruing~~
13 ~~from the sale of Keno tickets.~~

14 ~~(2) Payment of expenses incurred by the division in the operation of the state lotteries~~
15 ~~including, but not limited to, costs arising from contracts entered into by the director for~~
16 ~~promotional, consulting, or operational services, salaries of professional, technical, and clerical~~
17 ~~assistants, and purchases or lease of facilities, lottery equipment, and materials; provided~~
18 ~~however, solely for the purpose of determining revenues remaining and available for transfer to~~
19 ~~the state's general fund, beginning in fiscal year 2015, expenses incurred by the division in the~~
20 ~~operation of state lotteries shall reflect the actuarially determined employer contribution to the~~
21 ~~Employees' Retirement System consistent with the state's adopted funding policy. For financial~~
22 ~~reporting purposes, the state lottery fund financial statements shall be prepared in accordance~~
23 ~~with generally accepted accounting principles as promulgated by the Governmental Accounting~~
24 ~~Standards Board; and~~

25 ~~(3) Payment into the general revenue fund of all revenues remaining in the state lottery~~
26 ~~fund after the payments specified in subdivisions (a)(1) — (a)(2) of this section.~~

27 ~~(b) The auditor general shall conduct an annual post audit of the financial records and~~
28 ~~operations of the lottery for the preceding year in accordance with generally accepted auditing~~
29 ~~standards and government auditing standards. In connection with the audit, the auditor general~~
30 ~~may examine all records, files, and other documents of the division, and any records of lottery~~
31 ~~sales agents that pertain to their activities as agents, for purposes of conducting the audit. The~~
32 ~~auditor general, in addition to the annual post audit, may require or conduct any other audits or~~
33 ~~studies he or she deems appropriate, the costs of which shall be borne by the division.~~

34 ~~(c) Payments into the state's general fund specified in subsection (a)(3) of this section~~

1 ~~shall be made on an estimated quarterly basis. Payment shall be made on the tenth business day~~
2 ~~following the close of the quarter except for the fourth quarter when payment shall be on the last~~
3 ~~business day.~~

4 ~~**42-61-16. Penalties for forgery and counterfeiting.**~~

5 ~~Any person who, with intent to defraud, shall falsely make, alter, forge, utter, pass, or~~
6 ~~counterfeit a state lottery ticket or share shall be guilty of a felony punishable by imprisonment~~
7 ~~for not more than ten (10) years or by a fine of not more than one thousand dollars (\$1,000) or~~
8 ~~both.~~

9 ~~**42-61-17. Prizes exempt from taxation.**~~

10 ~~The prizes received pursuant to this chapter shall be exempt from the state sales or use~~
11 ~~tax.~~

12 ~~**42-61-18. Repealed.**~~

13 SECTION 2. Title 42 of the General Laws entitled "STATE AFFAIRS AND
14 GOVERNMENT" is hereby amended by adding thereto the following chapter:

15 CHAPTER 61.4

16 STATE LOTTERY AND LOTTERY COMMISSION

17 ~~**42-61.4-1. Lottery commission established.**~~

18 ~~(a) There is established a state lottery commission which shall consist of nine (9)~~
19 ~~members, all of whom shall be citizens and residents of this state: three (3) of whom shall be~~
20 ~~members of the senate, not more than two (2) from the same political party, to be appointed by~~
21 ~~the president of the senate; three (3) of whom shall be members of the house of representatives,~~
22 ~~not more than two (2) from the same political party, to be appointed by the speaker of the house;~~
23 ~~and three (3) of whom shall be representatives of the general public to be appointed by the~~
24 ~~governor.~~

25 ~~(b) The members shall be appointed for terms of three (3) years except for the three (3)~~
26 ~~members originally appointed by each of the appointing authorities; one shall be appointed for a~~
27 ~~term of one year, one shall be appointed for a term of two (2) years and one for a term of three (3)~~
28 ~~years. The members shall annually elect one of them as chairperson of the commission.~~

29 ~~(c) Any vacancy on the commission, occurring for any reason prior to the expiration of~~
30 ~~the term, including, but not limited to, termination of active membership in the general assembly,~~
31 ~~shall be filled for the unexpired term by the appointing authority in the same manner as the~~
32 ~~original appointment.~~

33 ~~(d) Any member of the commission may, for cause, be summarily removed from office~~
34 ~~by the appointing authority, which removal shall be subject to judicial review by the superior~~

1 court and pending that review the member shall not carry out any duties as a commission
2 member.

3 (e) The members of the commission shall receive no salaries, but shall be allowed
4 reasonable expenses in the performance of their official duties.

5 (f) The commission shall meet with the director of lotteries appointed under §42-61.4-2
6 not less than nine (9) times each year, for the purpose of promulgating and reviewing rules and
7 regulations relating to the lotteries, to make recommendations and set policy for lotteries, to
8 approve or reject actions of the director and to transact other business that may be properly
9 brought before the commission. The rules and regulations promulgated by the commission shall
10 include, but not be limited to:

11 (1) The types of lotteries to be conducted;

12 (2) The price of tickets or shares in the lotteries;

13 (3) The number and size of the prizes on the winning tickets or shares;

14 (4) The manner of selecting the winning tickets or shares;

15 (5) The manner of payment of prizes to the holders of winning tickets or shares;

16 (6) The frequency of the drawings or selections of winning tickets or shares;

17 (7) The number and types of location at which tickets or shares may be sold;

18 (8) The method to be used in selling tickets or shares;

19 (9) The licensing of agents to sell tickets or shares, except that a person under the age of
20 eighteen (18) shall not be licensed as an agent;

21 (10) The license fee to be charged to agents;

22 (11) The manner in which the proceeds of the sale of lottery tickets or shares are
23 maintained, reported, and otherwise accounted for;

24 (12) The manner and amount of compensation to be paid licensed sales agents necessary
25 to provide for the adequate availability of tickets or shares to prospective buyers and for the
26 convenience of the general public;

27 (13) The apportionment of the total annual revenue accruing from the sale of lottery
28 tickets or shares and from all other sources for the payment of prizes to the holders of winning
29 tickets or shares, for the payment of costs incurred in the operation and administration of the
30 lotteries, including the expense of the commission and the costs resulting from any contract or
31 contracts entered into for promotional, advertising, consulting, or operational services or for the
32 purchase or lease of facilities, lottery equipment, and materials, for the repayment of monies
33 appropriated to the lottery fund;

34 (14) The superior court, upon petition of the majority of the commission, after a hearing,

1 may issue subpoenas to compel the attendance of witnesses and the production of documents,
2 papers, books, records, and other evidence before it in any matter over which it has jurisdiction,
3 control or supervision. If a person subpoenaed to attend in the proceeding or hearing fails to obey
4 the command of the subpoena without reasonable cause, or if a person in attendance in the
5 proceeding or hearing refuses without lawful cause to be examined or to answer a legal or
6 pertinent question or to exhibit any book, account, record, or other document when ordered to do
7 so by the court, that person may be punished for contempt of the court;

8 (15) No action of the commission shall be binding unless taken at a meeting at which at
9 least five (5) of the members are present and a majority of those present and voting are in favor of
10 the action of the commission. The rules and regulations promulgated by the commission or any
11 amendments, revisions, supplements, or repeal thereof, shall be immediately transmitted, and
12 under the certification of the executive secretary of the commission, to the secretary of state for
13 filing;

14 (16) The manner, standards, and specifications for a process of competitive bidding for
15 commission purchases and contracts; and

16 (17) The sale of commercial advertising space on the reverse side of, or in other available
17 areas upon, lottery tickets provided that all net revenue derived from the sale of the advertising
18 space shall be deposited immediately into the state's general fund.

19 **42-61.4-2. Appointment of director of lotteries.**

20 The lotteries shall be under the immediate supervision and direction of a director, who
21 shall be a qualified person to administer an enterprise of the nature of a lottery. The director shall
22 be appointed by the governor with the majority approval of the commission and shall serve at the
23 pleasure of the commission. Any vacancy occurring in the office of the director shall be filled in
24 the same manner as the original appointment. The director shall devote their entire time and
25 attention to the duties of their office and shall not be engaged in any other profession or
26 occupation. They shall receive any salary that the commission shall determine and shall be in the
27 unclassified service.

28 **42-61.4-3. Powers and duties of director.**

29 The director shall have the power and it shall be their duty to:

30 (1) Supervise and administer the operation of lotteries in accordance with this chapter
31 and with the rules and regulations of the commission;

32 (2) Act as the chief administrative officer having general charge of the office and records
33 and to employ temporarily, subject to the approval of the commission, necessary personnel to
34 serve at their pleasure and who shall be in the unclassified service and whose salaries shall be set

1 by the commission;

2 (3) Act as executive secretary of the commission;

3 (4) In accordance with this chapter and the rules and regulations of the commission,
4 license as agents to sell lottery tickets those persons, as in their opinion, who will best serve the
5 public convenience and promote the sale of tickets or shares. The director may require a bond
6 from every licensed agent, in an amount provided in the rules and regulations of the commission.
7 Every licensed agent shall prominently display their license, or a copy of their license, as
8 provided in the rules and regulations of the commission;

9 (5) Confer regularly as necessary or desirable, and not less than once each month, with
10 the commission on the operation and administration of the lotteries; make available for inspection
11 by the commission, upon request, all books, records, files, and other information, and documents
12 of the commission; advise the commission and recommend those matters that they deem
13 necessary and advisable to improve the operation and administration of the lotteries;

14 (6) Recommend to the commission that it suspend or revoke any license issued pursuant
15 to this chapter or the rules and regulations promulgated under this chapter;

16 (7) Subject to the approval of the commission, enter into contracts for the operation of the
17 lotteries, or any part of the operation of the lotteries, and into contracts for the promotion of the
18 lotteries. No contract awarded or entered into by the director may be assigned by the holder
19 except by specific written approval of the commission;

20 (8) Ensure that monthly financial reports are prepared providing gross monthly revenues,
21 prize disbursements, other expenses, net income, and the amount transferred to the state general
22 fund for keno and for all other lottery operations; submit this report to the state budget officer, the
23 auditor general, the commission, the legislative fiscal advisors, and the governor no later than the
24 twentieth business day following the close of the month; the monthly report shall be prepared in a
25 manner prescribed by the members of the revenues estimating conference; at the end of each
26 fiscal year the director shall submit an annual report based upon an accrual system of accounting
27 which shall include a full and complete statement of lottery revenues, prize disbursements and
28 expenses, to the governor and the general assembly, which report shall be a public document and
29 shall be filed with the secretary of state;

30 (9) Carry on a continuous study and investigation of the state lotteries throughout the
31 state, and the operation and administration of similar laws which may be in effect in other states
32 or countries; and

33 (10) Implement and maintain the creation and sale of commercial advertising space on
34 lottery tickets.

1 **42-61.4-4. Sales agents.**

2 (a) For the purpose of this chapter, the term "person" shall be construed to mean and
3 include an individual, association, partnership, corporation, trust, estate, company, receiver,
4 trustee, referee, or other person acting in a fiduciary or representative capacity, whether appointed
5 by a court or otherwise, and any combination of individuals. "Person" shall be construed to mean
6 all departments, commissions, agencies, and instrumentalities of the state, including counties and
7 municipalities and agencies and instrumentalities of the state.

8 (b) The director of the state lottery commission may license any person as a lottery sales
9 agent as provided in this chapter. No license shall be issued to any person to engage in the sale of
10 lottery tickets as their sole occupation or business.

11 (c) Before issuing any license to a lottery sales agent the director shall consider:

12 (1) The financial responsibility and security of the person and their business or activity;

13 (2) The accessibility of their place of business or activity to the public;

14 (3) The sufficiency of existing licensed agents to serve the public interest;

15 (4) The volume of expected sales by the applicant;

16 (5) Any other factors pertaining to the public interest, convenience or trust.

17 (d) The director shall refuse to grant or shall suspend, pending a hearing before the
18 commission, or recommend a revocation of a license if the applicant or licensee:

19 (1) Has been convicted of a felony, or any crime involving moral turpitude;

20 (2) Has been engaging in gambling as a significant source of income;

21 (3) Has been convicted of violating any gambling statutes;

22 (4) Has been convicted of fraud or misrepresentation in any connection; or

23 (5) Has been found to have violated any rule, regulation, or order of the state lottery
24 commission.

25 The license of an agent shall be suspended by the director for any charge which may
26 result in a conviction for conduct prescribed in subsections (d)(1) through (d)(5) of this section,
27 which suspension shall be effective until a final judicial determination.

28 (e) The director shall refuse to grant, or shall suspend, pending a hearing before the
29 commission, or recommend revocation of a license if the applicant or licensee is a corporation:

30 (1) Any of whose directors, officers, or controlling shareholders have been found guilty
31 of any of the activities specified in subsection (d) of this section;

32 (2) In which it appears to the director of the state lottery commission that due to the
33 experience, character, or general fitness of any director, officer, or controlling shareholder, the
34 granting of a license as a lottery sales agent would be inconsistent with the public interest,

1 convenience, or trust;

2 (3) Not the owner or lessee of the business at which it will conduct a lottery sales agency
3 pursuant to the license applied for, or that any person, firm, association, or corporation other than
4 the applicant shares or will share in the profits of the applicant, other than receiving dividends as
5 a shareholder, or will participate in the management of the affairs of the applicant.

6 (f) Every holder of a license as a lottery sales agent shall renew the license annually
7 pursuant to the rules and regulations of the commission. Licensees shall pay to the commission a
8 fee to be determined by the commission upon receipt or renewal of a license.

9 (g) Whenever requested by the director, the division of criminal identification of the
10 department of the attorney general, the superintendent of state police, any superintendent or chief
11 of police or sergeant of any city or town, shall furnish all information on convictions, arrests and
12 present investigations concerning any person who is an applicant for a license or who is a licensee
13 of the state lottery.

14 (h) Notwithstanding any other provision of law, any person licensed as provided in this
15 chapter is authorized and empowered to act as a lottery sales agent.

16 (i) Every licensed sales agent authorized pursuant to this section and every licensed video
17 lottery retailer authorized by chapter 61.2 of this title shall keep conspicuously posted on their
18 premises the name and telephone number of a council on problem gambling recognized by an
19 appropriate authority within state government or within the professional field of addiction
20 disorders and a statement of its availability to offer assistance. The lottery commission shall
21 supply each licensee with the required notice.

22 **42-61.4-5. Proceeds of sales -- Segregated funds.**

23 (a) All proceeds from the sale of lottery tickets or shares received by a person in the
24 capacity of a sales agent shall constitute a trust fund until paid into the state lottery fund.

25 (b) The sales agent shall be personally liable for all proceeds; and failure to pay the
26 lottery commission monies owed, upon demand, from the sales or misappropriation of the funds
27 shall constitute embezzlement under §11-41-3.

28 (c) The provisions of this section shall be enforced and prosecuted by the state police and
29 the attorney general's office.

30 **42-61.4-6. Sales above fixed price -- Unlicensed sales -- Gifts.**

31 No person shall sell a ticket or share at a price greater than that fixed by rule or regulation
32 of the commission. No person other than a licensed lottery sales agent shall sell lottery tickets or
33 shares, except that nothing in this section shall be construed to prevent any individual purchaser
34 from giving lottery tickets or shares to another as a gift. Any person convicted of violating this

1 section shall be guilty of a misdemeanor.

2 **42-61.4-7. Prizes to lottery employees.**

3 No lottery prize award shall be awarded to or for any officer or employee of the state
4 lottery commission, or any blood relative of that officer or employee living as a member of that
5 officer or employee's household.

6 **42-61.4-8. Deposit of receipts -- Reports.**

7 The director shall, in accordance with rules and regulations, require any and all lottery
8 sales agents to deposit to the credit of the state lottery fund in financial institutions designated by
9 the commission all monies received by those agents from the sale of lottery tickets or shares, less
10 the amount, if any, retained as compensation for the sale of tickets or shares and less any monies
11 paid out as prizes by the agents, and to file with the director, or their designated agents, reports of
12 their receipts and transactions in the sale of lottery tickets in any form and containing any
13 information they may require. The director may make any arrangements for any person, including
14 a financial institution, to perform any functions, activities, or services in connection with the
15 operation of the lottery as they may deem advisable pursuant to this chapter and the rules and
16 regulations of the commission, and the functions, activities, or services shall constitute lawful
17 functions, activities, and services of the person.

18 **42-61.4-9. State lottery fund.**

19 (a) There is created the state lottery fund, into which shall be deposited all revenues
20 received by the commission from the sales of lottery tickets and license fees. The fund shall be in
21 the custody of the general treasurer, subject to the direction of the commission for the use of the
22 commission, and money shall be disbursed from it on the order of the controller of the state,
23 pursuant to vouchers or invoices signed by the director of the commission and certified by the
24 chairperson of the commission. The monies in the state lottery fund shall be allotted in the
25 following order, and only for the following purposes:

26 (1)(i) Establishing a prize fund from which payments of the prize awards shall be
27 disbursed to holders of winning lottery tickets on checks signed by the director and countersigned
28 by the chairperson or their designee. The amount of payments of prize awards to holders of
29 winning lottery tickets shall be determined by the commission, but shall not be less than forty-
30 five percent (45%) nor more than sixty-five percent (65%) of the total revenue accruing from the
31 sale of lottery tickets, except as provided for in subsection (a)(1)(ii) of this section;

32 (ii) Provided, for the lottery game commonly known as "Keno," the amount of prize
33 awards to holders of winning Keno tickets shall be determined by the commission, but shall not
34 be less than forty-five percent (45%) nor more than seventy-two percent (72%) of the total

1 revenue accruing from the sale of Keno tickets;

2 (2) Payment of expenses incurred by the commission in the operation of the state lotteries
3 including, but not limited to, costs arising from contracts entered into by the director for
4 promotional, consulting, or operational services, salaries of professional, technical, and clerical
5 assistants, and purchases or lease of facilities, lottery equipment, and materials;

6 (3) Repayment into the general revenue fund of the amount appropriated for the
7 implementation of the state lottery; and

8 (4) Payment into the general revenue fund of all revenues remaining in the state lottery
9 fund after the payments specified in subsections (a)(1) through (a)(3) of this section; provided,
10 that the amount to be transferred into the general revenue fund shall equal to no less than twenty-
11 five percent (25%) of the total revenue received and accrued from the sale of lottery tickets plus
12 any other income earned from the lottery; provided further, that the revenue returned to the
13 general fund from the game commonly known as Keno, shall not be calculated as part of the
14 twenty-five percent (25%) mandate required by this section, but the amount transferred into the
15 general revenue fund shall equal no less than fifteen percent (15%) of the total Keno revenue
16 received.

17 (b) In addition to any other audit, the auditor general shall conduct semi-annual audits of
18 all accounts and any other audits they or the commission shall deem necessary. The auditor
19 general may examine all records, files, and other documents of the commission, and any records
20 of lottery sales agents that pertain to their activities as agents, for purposes of conducting
21 authorized audits.

22 (c) Payments into the state's general fund specified in subsection (a)(4) of this section
23 shall be made on an estimated quarterly basis. Payment shall be made on the tenth business day
24 following the close of the quarter except for the fourth quarter when payment shall be on the last
25 business day.

26 **42-61.4-10. Legislative findings.**

27 The general assembly finds and declares that the lottery commission as herein constituted
28 does not violate and does not contravene the provisions of Article V of the constitution of the
29 state (the separation of powers amendment, so-called), inasmuch as the specific direction of
30 Article VI, section 15 of the constitution respecting lotteries was not then or subsequently
31 repealed.

32 SECTION 3. Chapter 22-14.2 of the General Laws entitled "Permanent Joint Committee
33 on State Lottery" is hereby repealed in its entirety.

34 ~~CHAPTER 22-14.2~~

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Permanent Joint Committee on State Lottery

~~22-14.2-1. Permanent joint committee on state lottery -- Composition.~~

~~There is hereby created a permanent joint committee on state lottery. The permanent joint committee on state lottery shall consist of eight (8) members; four (4) of whom shall be members of the senate, not more than three (3) from the same political party to be appointed by the senate president; and four (4) of whom shall be members of the house of representatives, not more than three (3) from the same political party to be appointed by the speaker of the house.~~

~~The senate president and the speaker of the house shall consult with the house and senate minority leaders on the appointment of the minority members.~~

~~22-14.2-2. Powers and duties of permanent joint committee on state lottery.~~

~~The permanent joint committee on state lottery shall have the authority to:~~

- ~~(a) Provide oversight to the state lottery and the division of state lottery;~~
- ~~(b) Confer as the committee deems desirable with the director of lotteries;~~
- ~~(c) Recommend the type of lotteries to be conducted;~~
- ~~(d) Issue subpoenas, subpoenas duces tecum and orders for the production of books, accounts, papers, records and documents, and;~~
- ~~(e) Make recommendations to the general assembly and propose legislation regarding the operation of the state lottery.~~

SECTION 4. This act shall take effect upon passage.

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LC001155
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO STATE AFFAIRS AND GOVERNMENT -- STATE LOTTERY

1 This act would restore the lottery commission, and provide that it is not subject to the
2 operation of the separation of powers amendment.

3 This act would take effect upon passage.

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