

# HOUSE BILL 446

C7  
HB 711/12 – W&M

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By: **Delegates Bromwell, Beitzel, Boteler, Cardin, Clagett, Cluster, Conaway, Costa, DeBoy, Donoghue, Elliott, Feldman, Frank, Guzzone, Haddaway–Riccio, Hershey, Hogan, Impallaria, Ivey, Jacobs, Kach, Kaiser, K. Kelly, Kipke, Krebs, Lafferty, McDermott, McDonough, McHale, W. Miller, Minnick, Mitchell, Morhaim, Norman, Oaks, Olszewski, Otto, Ready, Reznik, Schulz, Smigiel, Tarrant, Weir, and Wood**

Introduced and read first time: January 28, 2013

Assigned to: Ways and Means

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## A BILL ENTITLED

1 AN ACT concerning

2 **Gaming – Video Lottery Operation License – Baltimore–Washington**  
3 **International Thurgood Marshall Airport**

4 FOR the purpose of altering the number of video lottery operation licenses and video  
5 lottery terminals that may be awarded by the Video Lottery Facility Location  
6 Commission to provide for the award of a video lottery operation license at  
7 Baltimore–Washington International Thurgood Marshall Airport under certain  
8 conditions; providing that a certain restriction on the number of video lottery  
9 operation licenses that may be awarded in a county or in Baltimore City is not  
10 applicable; requiring that certain proceeds be paid into the Transportation  
11 Trust Fund; providing that an application for a certain video lottery operation  
12 license be made by a certain date; submitting this Act to a referendum of the  
13 qualified voters of the State; and generally relating to the operation of video  
14 lottery terminals and table games at a certain location in the State.

15 BY repealing and reenacting, with amendments,  
16 Article – State Government  
17 Section 9–1A–05(a), 9–1A–27(a), and 9–1A–36(f), (g), (h), (i), (j), and (r)(1)  
18 Annotated Code of Maryland  
19 (2009 Replacement Volume and 2012 Supplement)

20 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
21 MARYLAND, That the Laws of Maryland read as follows:

22 **Article – State Government**

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 9-1A-05.

2 (a) The Video Lottery Facility Location Commission established under §  
3 9-1A-36 of this subtitle may not:

4 (1) award more than [six] **SEVEN** video lottery operation licenses;

5 (2) award more than [16,500] **19,000** video lottery terminals for  
6 operation at video lottery facilities in the State;

7 (3) subject to the requirements of **ITEM (4) OF THIS SUBSECTION**  
8 **AND** § 9-1A-36(h) and (i) of this subtitle, award more than 4,750 terminals for  
9 operation at any video lottery facility; [and]

10 **(4) AWARD MORE THAN 2,500 VIDEO LOTTERY TERMINALS FOR**  
11 **OPERATION AT BALTIMORE-WASHINGTON INTERNATIONAL THURGOOD**  
12 **MARSHALL AIRPORT; AND**

13 **[(4)](5)** for a location in Allegany County:

14 (i) award a video lottery operation license to an applicant that  
15 does not agree to purchase the Rocky Gap Lodge and Resort; and

16 (ii) notwithstanding § 9-1A-36(i)(2) of this subtitle, award more  
17 than 1,500 video lottery terminals for operation at a video lottery facility in Allegany  
18 County.

19 9-1A-27.

20 (a) Except as provided in subsections (b) and (c) of this section and §  
21 9-1A-26(a)(3) of this subtitle, on a properly approved transmittal prepared by the  
22 Commission, the Comptroller shall pay the following amounts from the proceeds of  
23 video lottery terminals at each video lottery facility:

24 (1) (i) on or before March 31, 2015, 2% to the State Lottery and  
25 Gaming Control Agency for costs as defined in § 9-1A-01 of this subtitle; and

26 (ii) beginning April 1, 2015, 1% to the State Lottery and Gaming  
27 Control Agency for costs as defined in § 9-1A-01 of this subtitle;

28 (2) to the video lottery operation licensee, the percentage stated in the  
29 accepted application for the location, not to exceed, except as provided in subsection (b)  
30 of this section, 33%;

1                   (3)    5.5% in local impact grants, in accordance with § 9–1A–31 of this  
2 subtitle;

3                   (4)    7% to the Purse Dedication Account established under § 9–1A–28  
4 of this subtitle, not to exceed a total of \$100,000,000 to the Account annually;

5                   (5)    (i)    until the issuance of a video lottery operation license in  
6 Baltimore City, 1.75% to the Racetrack Facility Renewal Account established under §  
7 9–1A–29 of this subtitle and distributed in accordance with that section; and

8                               (ii)    on or after the issuance of a video lottery operation license in  
9 Baltimore City, 1% to the Racetrack Facility Renewal Account established under §  
10 9–1A–29 of this subtitle and distributed in accordance with that section, not to exceed  
11 a total of \$20,000,000 to the Account annually;

12                   (6)    1.5% to the Small, Minority, and Women–Owned Businesses  
13 Account established under § 9–1A–35 of this subtitle;

14                   (7)    (i)    except as provided in item (ii) of this item, 6% to the video  
15 lottery operation licensee if the video lottery operation licensee owns or leases each  
16 video lottery terminal device and the associated equipment and software; and

17                               (ii)    8% to the video lottery operation licensee in Anne Arundel  
18 County;

19                   (8)    beginning after the issuance of a video lottery operation license for  
20 a video lottery facility in Prince George’s County, 8% to the video lottery operation  
21 licensee in Anne Arundel County and 7% to the licensee in Baltimore City for:

22                               (i)    marketing, advertising, and promotional costs required  
23 under § 9–1A–23 of this subtitle; and

24                               (ii)    capital improvements at the video lottery facilities; and

25                   (9)    the remainder to:

26                               (I)    the Education Trust Fund established under § 9–1A–30 of  
27 this subtitle; **OR**

28                               (II)   **IF THE PROCEEDS ARE FROM THE VIDEO LOTTERY**  
29 **TERMINALS AT BALTIMORE–WASHINGTON INTERNATIONAL THURGOOD**  
30 **MARSHALL AIRPORT, THE TRANSPORTATION TRUST FUND.**

31 9–1A–36.

1 (f) The Video Lottery Facility Location Commission may award not more  
 2 than [six] SEVEN video lottery operation licenses to qualified applicants, through a  
 3 competitive process consistent with the process for competitive sealed proposals under  
 4 Title 13 of the State Finance and Procurement Article.

5 (g) (1) **THIS SUBSECTION DOES NOT APPLY TO A VIDEO LOTTERY**  
 6 **OPERATION LICENSE AWARDED FOR A LOCATION AT BALTIMORE–WASHINGTON**  
 7 **INTERNATIONAL THURGOOD MARSHALL AIRPORT.**

8 (2) The Video Lottery Facility Location Commission may not award  
 9 more than one video lottery facility operation license in a single county or Baltimore  
 10 City.

11 (h) (1) In order to qualify for a video lottery operation license under this  
 12 section, a proposed video lottery facility shall be located in one of the following  
 13 [counties] LOCATIONS:

14 (i) a location in Anne Arundel County, within 2 miles of MD  
 15 Route 295;

16 (ii) a location in Cecil County, within 2 miles of Interstate 95;

17 (iii) a location on State property associated with the Rocky Gap  
 18 State Park in Allegany County;

19 (iv) a location in Worcester County, within 1 mile of the  
 20 intersection of Route 50 and Route 589;

21 (v) a location in Baltimore City **ON PROPERTY** that is:

22 1. located:

23 A. in a nonresidential area;

24 B. within one-half mile of Interstate 95;

25 C. within one-half mile of MD Route 295; and

26 D. [on property that] **IN AND** is owned by Baltimore City  
 27 on the date on which the application for a video lottery operation license is submitted;  
 28 and

29 2. not adjacent to or within one-quarter mile of property  
 30 that is:

31 A. zoned for residential use; and

1                   B.     used for a residential dwelling on the date the  
2 application for a video lottery operation license is submitted; [or]

3                   (vi)   a location in Prince George's County within a 4-mile radius  
4 of the intersection of Bock Road and St. Barnabas Road; **OR**

5                   **(VII) IN ENCLOSED AREAS AT THE TERMINAL BUILDING**  
6 **WITHIN THE SECURITY PERIMETER OF BALTIMORE-WASHINGTON**  
7 **INTERNATIONAL THURGOOD MARSHALL AIRPORT.**

8                   (2)   Nothing in this subtitle may be construed to preempt the exclusive  
9 authority of the Video Lottery Facility Location Commission to award video lottery  
10 operation licenses in accordance with this subtitle.

11                  (3)   (i)   With respect to a video lottery operation license awarded to  
12 a location under paragraph (1)(iv) of this subsection, the holder of the video lottery  
13 operation license or any other person with a direct or indirect legal or financial  
14 interest in the Ocean Downs racetrack or video lottery facility may not:

15                                 1.   build any type of hotel, motel, or other public lodging  
16 accommodation on or within 10 miles of the property owned by the holder of the  
17 license on which a video lottery facility is operated;

18                                 2.   convert an existing facility on or within 10 miles of  
19 the property described in item 1 of this subparagraph into any type of hotel, motel, or  
20 other public lodging accommodation; or

21                                 3.   build or operate a conference center or convention  
22 center, amusement park, amusement rides, arcade, or miniature golf course on or  
23 within 10 miles of the property described in item 1 of this subparagraph.

24                   (ii)   The prohibitions under subparagraph (i) of this paragraph  
25 apply to any subsequent holder of a video lottery operation license awarded under  
26 paragraph (1)(iv) of this subsection.

27                  (i)   (1)   Except as provided in paragraphs (2) and (3) of this subsection, the  
28 Video Lottery Facility Location Commission may not allocate more than the following  
29 number of video lottery terminals for:

30                                 (i)   a location in Anne Arundel County – 4,750 video lottery  
31 terminals;

32                                 (ii)  a location in Baltimore City – 3,750 video lottery terminals;

33                                 (iii) a location in Cecil County – 2,500 video lottery terminals;

1 (iv) a location in Prince George's County – 3,000 video lottery  
2 terminals;

3 (v) a location in Rocky Gap State Park (Allegany County) –  
4 1,500 video lottery terminals; [and]

5 (vi) a location in Worcester County – 2,500 video lottery  
6 terminals; AND

7 (VII) A LOCATION AT THE TERMINAL BUILDING AND  
8 SURROUNDING AREA WITHIN THE SECURITY PERIMETER OF  
9 BALTIMORE–WASHINGTON INTERNATIONAL THURGOOD MARSHALL AIRPORT –  
10 2,500 VIDEO LOTTERY TERMINALS.

11 (2) [The] EXCEPT AS PROVIDED IN § 9-1A-05(A)(4) OF THIS  
12 SUBTITLE, THE Video Lottery Facility Location Commission may allocate video  
13 lottery terminals in a manner that is different from the allocation provided in  
14 paragraph (1) of this subsection on a determination that the market factors and other  
15 factors evaluated under subsection (k) of this section warrant the different allocation,  
16 provided that no one location may be allocated more than 4,750 video lottery  
17 terminals.

18 (3) (i) [Beginning] EXCEPT AS PROVIDED IN § 9-1A-05(A)(4)  
19 OF THIS SUBTITLE, BEGINNING with the termination date for the Video Lottery  
20 Facility Location Commission and every 3 years thereafter, if all of the video lottery  
21 terminals authorized under this subtitle are not allocated or have been allocated but  
22 are not in regular operation, the State Lottery and Gaming Control Commission may  
23 allocate or reallocate video lottery terminals to video lottery operation licensees in a  
24 manner that ensures that the highest potential revenues are achieved.

25 (ii) In determining the highest potential revenues to be achieved  
26 by additional video lottery terminals at each potential location, the State Lottery and  
27 Gaming Control Commission shall consider the market performance of the existing  
28 video lottery terminals at each location.

29 (j) (1) (i) Except as provided in subparagraph (ii) of this paragraph  
30 AND PARAGRAPH (2) OF THIS SUBSECTION, an application submitted for a video  
31 lottery operation license under this section shall include an initial license fee in the  
32 application of at least \$3,000,000 for each 500 video lottery terminals included in the  
33 application.

34 (ii) For an application submitted for a video lottery operation  
35 license in Allegany County, the initial license fee for up to 500 video lottery terminals  
36 shall be waived.

1           **(2) AN APPLICATION SUBMITTED FOR A VIDEO LOTTERY**  
2 **OPERATION LICENSE AT BALTIMORE–WASHINGTON INTERNATIONAL**  
3 **THURGOOD MARSHALL AIRPORT SHALL BE SUBMITTED BY APRIL 15, 2015.**

4           **[(2)](3)** All initial license fees submitted under this subtitle shall  
5 accrue to the Education Trust Fund established under § 9–1A–30 of this subtitle.

6           **[(3)](4)** (i) An application submitted for a video lottery operation  
7 license under this section shall provide for at least \$25,000,000 in direct investment by  
8 the applicant in construction and related costs for each 500 video lottery terminals  
9 contained in the proposed application that shall be prorated based on the exact  
10 number of video lottery terminals contained in the application.

11           (ii) For an application submitted for a video lottery operation  
12 license in Allegany County, the purchase price for the Rocky Gap Lodge and Resort  
13 shall be counted in the calculation of the applicant’s direct investment under this  
14 paragraph, as determined by the Video Lottery Facility Location Commission.

15           (r) (1) Nothing in this subtitle may be construed to require the Video  
16 Lottery Facility Location Commission to award all **[six] SEVEN** video lottery operation  
17 licenses authorized under this subtitle.

18           SECTION 2. AND BE IT FURTHER ENACTED, That before this Act, which  
19 authorizes an expansion of commercial gaming, becomes effective it shall first be  
20 submitted to a referendum of the qualified voters of the State at the general election to  
21 be held in November of 2014, in accordance with Article XIX, § 1(e) of the Maryland  
22 Constitution. The State Board of Elections shall do those things necessary and proper  
23 to provide for and hold the referendum required by this section. If a majority of the  
24 votes cast on the question are “For the referred law” the provisions of this Act shall  
25 become effective on the 30th day following the official canvass of votes for the  
26 referendum, but if a majority of the votes cast on the question are “Against the  
27 referred law” the provisions of this Act are of no effect and null and void.

28           SECTION 3. AND BE IT FURTHER ENACTED, That, subject to the provisions  
29 of Section 2 of this Act and for the sole purpose of providing for the referendum  
30 required by Section 2 of this Act, this Act shall take effect July 1, 2013.