

LAWS OF DELAWARE
VOLUME 84
CHAPTER 32
152nd GENERAL ASSEMBLY
FORMERLY
SENATE BILL NO. 64
AS AMENDED BY
HOUSE AMENDMENT NO. 2

AN ACT TO AMEND TITLE 29 OF THE DELAWARE CODE RELATING TO THE STATE LOTTERY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend § 4815, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4815. State Lottery Fund.

(b) All proceeds, net of proceeds returned to players pursuant to paragraph (b)(1) of this section, from the operation of the video lottery shall be electronically transferred daily or weekly at the discretion of the Lottery Director into a designated State Lottery account by the agent, and transferred to the State Lottery Fund by the Lottery on a daily or weekly basis and shall be applied as follows:

(3) a. *Proceeds returned to the State.* —

Except as otherwise provided by this paragraph, of amounts remaining after all payments under paragraphs (b)(1) and (b)(2) of this section, there shall be returned to the State 42½%, less any qualified capital expenditure adjustment provided for in this paragraph. For licensees which conducted 40 or fewer (but at least 1) days of live harness horse races during 1992, should such licensees' video lottery proceeds, net of proceeds returned to players, at the end of any fiscal year fall below \$107,500,000, then, in the subsequent fiscal year, there shall be returned to the State 41½% of amounts remaining after all payments under paragraphs (b)(1) and (b)(2) of this section, less any qualified capital expenditure adjustment provided for in this paragraph.

3. Any amounts incurred or paid in any single year which exceed the 3% required for the adjustment under paragraph (b)(3)a.1. of this section may be carried forward for no more than 2 ~~years~~ years, except that amounts used to reduce the license fee under § 4819(d)(2) of this title may not also be carried forward.

Section 2. Amend § 4819, Title 29 of the Delaware Code by making deletions as shown by strike through and insertions as shown by underline as follows:

§ 4819. Restrictions on location and use of video lottery and sports lottery machines; fees.

(d) (1) ~~For~~ Except as otherwise provided in paragraph (d)(2) of this section, for the privilege of hosting the operation of table games, the State shall collect from the video lottery agents for the benefit of the General Fund, for each fiscal year after June 30, 2018, 2023, license fees totaling \$3,000,000, to be paid ~~no later than June 1 of the preceding fiscal year,~~ June 1, and to be allocated among the video lottery agents offering table games as follows: Each video lottery agent's license fee shall be the portion of \$3,000,000 that is equal to the percentage of gross table game revenue generated at that video lottery facility in the ~~preceding fiscal year~~ calendar year immediately preceding the license fee due date out of the total gross table game revenue generated at all video lottery facilities in the ~~preceding fiscal year~~ calendar year immediately preceding the license fee due date.

(2) ~~The license fee required under paragraph (d)(1) of this section is suspended for fiscal year 2020, and no payment is owed to the Delaware Lottery on June 1, 2019. For each fiscal year thereafter,~~ Except as otherwise provided in this paragraph (d)(2), each video lottery agent shall be permitted for purposes of this subsection to reduce the license fee it would otherwise owe for that year pursuant to paragraph (d)(1) of this section by the amount of qualified investments made in the

~~12-month period ending on June 30~~ calendar year ending the immediately preceding December 31 by the video lottery agent in the competitiveness of its facilities and ~~business~~, business in excess of the amounts required to receive the video lottery agent's qualified capital expenditure adjustment provided for in § 4815(b)(3)a. of this title, if such qualified investments are increased by the amount of such video lottery agent's proportional share of the \$3,000,000 license fee. If amounts incurred or paid in any year exceed the 3% required for the adjustment under § 4815(b)(3)a.1 of this title and are utilized for a reduction in license fees required by this section, the amount used to reduce the license fee under this paragraph (d)(2) may not also be carried forward under § 4815(b)(3)a.3. of this title. The video lottery agents shall provide the Director and the Controller General annually an accounting of the qualified investments made pursuant to this paragraph. The accounting of qualified investments must be provided simultaneously with the submission of any application for license fee reduction or other document seeking to utilize the license fee reduction permitted by this paragraph. The Director and the Controller General must both approve the accounting of qualified investments before a license fee reduction under this section is allowed. A qualified investment pursuant to this paragraph shall be determined by the Director to benefit the competitiveness or services of such video lottery agent and may include expenditures for all of the following:

a. ~~Marketing of lottery games promotional items provided to patrons, with complimentary items valued at their normal retail value.~~

b. ~~Wages and benefits, including health care and retiree benefits, of the video lottery facility's operations, excluding executive compensation, all as determined by the Director to be in excess of the comparable amount of such expenditures made by the video lottery agent during the 12-month period ending December 31, 2017, measured as a percentage of the proceeds from the operation of the video lottery and table games.~~

~~(3) Expenditures for marketing, wages, or benefits under paragraph (d)(2) of this section apply to any facilities used by the video lottery agent in direct connection with its operations, including its video lottery, sports lottery and table games facilities, horse racing facilities, food and beverage operations, entertainment venues, retail operations, parking facilities, and if applicable, hotel and golf course amenities.~~

(3) The license fee reduction authorized in paragraph (d)(2) of this section may be claimed only by a video lottery agent for a video lottery facility for which there has been no change in beneficial ownership during the calendar year for which the fee reduction is sought.

Section 2. This Act sunsets 1 year from [the effective date of this Act] unless renewed or extended by a subsequent Act of the General Assembly.

Approved May 25, 2023