

CHAPTER 1102a. TERMINAL OPERATOR LICENSEES

Sec.

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Authority

The provisions of this Chapter 1102a added under 4 Pa.C.S. §§ 3301(a) and (b)(30) and 3302, unless otherwise noted.

Source

The provisions of this Chapter 1102a added August 20, 2021, effective August 21, 2021, 51 Pa.B. 5207, unless otherwise noted.

§ 1102a.1. Terminal operator licenses.

(a) An applicant for a terminal operator license may conduct video gaming upon approval by the Board and in accordance with 4 Pa.C.S. Part III (relating to video gaming) and this chapter.

(b) An applicant shall submit all of the following:

- (1) An Enterprise Entity Application and Disclosure Information Form.
- (2) The nonrefundable application fee of \$25,000 in accordance with 4 Pa.C.S. § 4101(a) (relating to fees).
- (3) A diversity plan as set forth in 4 Pa.C.S. § 3307 (relating to diversity).
- (4) A current tax lien certificate issued by the Department.
- (5) An application for each proposed key employee under Chapter 1105a (relating to key employees) and principal under Chapter 1104a (relating to principals) as specified in the Enterprise Entity Application and Disclosure Information Form.
- (6) A statement that the applicant has developed and implemented internal safeguards and policies to prevent a violation of 4 Pa.C.S. § 4305 (relating to political influence) and a copy of the safeguards and policies.
- (7) Details of any loans or other financial commitments to fund license costs and costs of operating video gaming.
- (8) Information and documentation concerning financial background and resources, as the Board or the Bureau may require, to establish by clear and convincing evidence the financial stability, integrity and responsibility of the applicant.
- (9) A consent authorizing the Board to conduct a background investigation, the scope of which is to be determined by the Bureau, in its discretion consistent with 4 Pa.C.S. Part III (relating to video gaming), and a release signed by all persons subject to investigation of all information required to complete the investigation.

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(10) Information concerning maintenance and operation of video gaming terminals in other jurisdictions.

(11) Proof that the applicant has or will establish a place of business in this Commonwealth.

(12) A copy of, or a detailed description of, the terms and conditions of any terminal placement agreement entered into with an establishment licensee applicant or licensee.

(13) Any other information as the Board or the Bureau may require.

(c) Upon request of the Board or the Bureau, the applicant shall cooperate and provide supplemental information in support of its application. The applicant shall provide requested documents, records, supporting data and other information within the time period specified in the request or, if a time is not specified, within 30 days of the date of the request. If the applicant fails to provide the requested information within the required time period as set forth in the request, the Board may deny the application.

(d) The application, and amendments thereto, and other specific documents designated by the Board shall be filed promptly with the application or amendments thereto.

(e) An application and related materials that have been submitted to the Board will become the property of the Board and will not be returned.

§ 1102a.2. Terminal operator license issuance and statement of conditions.

(a) *Criteria.* In addition to the criteria in 4 Pa.C.S. Part III (relating to video gaming), the Board will not issue a terminal operator license unless all of the following criteria have been established by the applicant:

(1) The applicant has fulfilled each condition set by the Board, including the execution of a statement of conditions.

(2) The applicant is found suitable consistent with the laws of the Commonwealth and is otherwise qualified to be issued a terminal operator license.

(b) *Statement of conditions.*

(1) The applicant, as a condition precedent to the issuance of a terminal operator license, shall execute a Statement of Conditions in the manner and form required by the Board. Execution of the Statement of Conditions constitutes the acceptance of each provision contained in the Statement of Conditions by the applicant.

(2) Failure to fully comply with any provision contained in an executed Statement of Conditions constitutes a violation and may result in Board-imposed administrative sanctions, up to and including revocation of the license.

§ 1102a.3. Conditional terminal operator licenses.

(a) Upon accepting a terminal operator application for filing, the Board will issue a conditional terminal operator license if requested by the applicant and the applicant has satisfied, as determined by the Board, all of the following:

- (1) The applicant has submitted a completed application for a terminal operator license.
 - (2) The applicant has never had a similar gaming license denied or revoked in another jurisdiction.
 - (3) The applicant has never been convicted of a felony in any jurisdiction.
 - (4) The applicant has never been convicted of a gambling law violation in any jurisdiction.
 - (5) The applicant is current on all State taxes.
 - (6) The applicant attests by affidavit under penalty of perjury that the applicant is not otherwise prohibited from licensure under 4 Pa.C.S. Part III (relating to video gaming).
- (b) The Board will issue a conditional terminal operator license within 60 days after the completed application has been received by the Board, and the Board has determined that the criteria in subsection (a) have been satisfied.
- (c) If the Board determines that the criteria in subsection (a) have not been satisfied, the Board will give the applicant written notice and explanation of that determination.
- (d) A conditional license issued under this section will be valid until:
- (1) The Board approves or denies the application for a terminal operator license.
 - (2) The conditional license is terminated for a violation of the act or this part.
 - (3) One calendar year has passed since the conditional license has been issued.
- (e) The Board may extend the duration of a conditional license for 1 year.
- (f) A request for conditional licensure must include a \$100 fee in addition to the applicable fee required under 4 Pa.C.S. § 4101 (relating to fees).

§ 1102a.4. Terminal operator licensee change of control.

- (a) For purposes of this section, a change of control of a terminal operator licensee will be deemed to have occurred when a person or group of persons acquires:
- (1) More than 20% of a terminal operator licensee's securities, assets or other ownership interests.
 - (2) More than 20% of the securities or other ownership interests of a corporation or other form of business entity that owns directly or indirectly at least 20% of the voting or other securities or other ownership interests of the terminal operator licensee.
 - (3) Any other interest in a terminal operator licensee which allows the acquirer to control the terminal operator licensee.

(b) A terminal operator licensee shall notify the Bureau and the Bureau of Licensing in a manner prescribed by the Bureau of Licensing immediately upon becoming aware of any proposed or contemplated change of control of the terminal operator licensee.

(c) Prior to acquiring a controlling interest in a terminal operator licensee, the acquirer shall file a petition in accordance with § 493a.4 (relating to petitions generally) requesting Board approval of the acquisition. The petition must include all of the following:

(1) A copy of all documents governing the acquisition.

(2) Completed applications for the acquiring company, as required under this chapter, principals as required under Chapters 433a and 1104a (relating to principal licenses; and principals) and key employees as required under § 435a.2 (relating to key employee license) and Chapter 1105a (relating to key employees).

(d) A person or group of persons seeking to acquire a controlling interest in a terminal operator licensee shall promptly provide any additional information requested by the Board and Board staff and cooperate with the Bureau in any investigations related to the petition filed under subsection (c).

(e) A person or group of persons may not acquire a controlling interest in a terminal operator licensee until the petition required under subsection (c) has been approved. A person or group of persons seeking to acquire a controlling interest in a terminal operator licensee and the terminal operator may enter into an agreement of sale that is contingent on Board approval of the petition.

(f) The requirements in this section do not apply to the acquisition of a controlling interest in a terminal operator when all of the following conditions are met:

(1) The acquirer is an existing licensed terminal operator licensee.

(2) The existing licensed terminal operator licensee has provided the Bureau and the Bureau of Licensing notification and a copy of all documents governing the acquisition at least 60 days prior to the acquisition.

(3) After reviewing the documentation, the Bureau and the Bureau of Licensing determine that the filing of a petition is not required.

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