

1 HB73
2 216149-2
3 By Representative Howard
4 RFD: Economic Development and Tourism
5 First Read: 11-JAN-22
6 PFD: 01/10/2022

SYNOPSIS: This bill would implement the constitutional amendment contained in HB___ upon ratification of the amendment by providing for the powers, duties, and operation of the Alabama Lottery, the Alabama Lottery Corporation, and the Alabama Lottery Commission; the use of lottery proceeds; and limitations on retailers of lottery tickets.

A BILL
TO BE ENTITLED
AN ACT

Relating to lotteries; to provide for legislative intent; the powers and duties of the Alabama Lottery Commission; the use of lottery proceeds; and limitations on retailers of lottery tickets.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. This act shall be known and may be cited as the Alabama Lottery Act.

1 Section 2. (a) The purpose of this act is to further
2 implement the constitutional amendment proposed by HB___ of
3 the 2022 Regular Session upon adoption of the amendment by the
4 voters.

5 (b) The Legislature hereby recognizes that the
6 operations of a lottery are unique activities for state
7 government and that a corporate structure will best enable a
8 lottery to be managed in an entrepreneurial and business like
9 manner. It is the intent of the Legislature that the Alabama
10 Lottery Corporation shall be accountable to the Governor, the
11 Legislature, and the people of the State of Alabama through a
12 system of audits, reports, and thorough financial disclosures
13 as required by this act.

14 Section 3. For the purposes of this act, the terms
15 commission, corporation, executive director, and retailer are
16 the entities and individuals as defined in the constitutional
17 amendment proposed in HB___ of the 2022 Regular Session.

18 Section 4. Alabama Lottery Commission; duties;
19 powers.

20 (a) Members of the commission may not participate in
21 the lottery.

22 (b) Members of the commission shall be reimbursed
23 for necessary travel and other reasonable expenses incurred in
24 the performance of their official duties.

25 (c) The commission shall appoint and shall provide
26 for the compensation of an executive director who shall direct
27 the day-to-day operations and management of the corporation.

1 The executive director shall serve at the pleasure of the
2 commission. The executive director may not be a member of the
3 commission.

4 (d) The commission shall provide the executive
5 director with private-sector perspectives on the operation of
6 a large marketing enterprise. The commission shall do all of
7 the following:

8 (1) Approve, disapprove, amend, or modify the budget
9 recommended by the executive director for the operation of the
10 corporation.

11 (2) Approve, disapprove, amend, or modify the terms
12 of major lottery procurements recommended by the executive
13 director.

14 (3) Serve as a board of appeals for any denial,
15 revocation, or cancellation by the executive director of a
16 contract with a lottery retailer.

17 (e) The commission may adopt rules for the conduct
18 of specific lottery games, including, but not limited to,
19 rules specifying any of the following:

20 (1) The types of games to be conducted, including,
21 but not limited to, a state lottery or a multistate lottery,
22 instant tickets, scratch-off ticket games, or any other
23 lottery offered in another state.

24 (2) The price of tickets.

25 (3) The number and amount of prizes.

26 (4) The method and location of selecting or
27 validating winning tickets.

1 (5) The frequency and the means of conducting
2 drawings which shall be open to the public.

3 (6) The manner of payment of prizes.

4 (7) The frequency of games and drawings.

5 (8) The manner and amount of compensation to lottery
6 retailers, which shall be uniform.

7 (9) Any other matters necessary or desirable for the
8 efficient and effective operation of the lottery and for the
9 convenience of the public.

10 (f) Rules adopted by the commission shall not be
11 subject to the Alabama Administrative Procedure Act.

12 Section 5. Alabama Lottery Corporation; powers and
13 duties.

14 (a) The corporation may enter into written
15 agreements with one or more states for the operation,
16 marketing, and promotion of a joint lottery or joint lottery
17 games.

18 (b) The corporation shall adopt rules providing for
19 a system of continuous internal audits and shall maintain
20 weekly or more frequent records of lottery transactions,
21 including distribution of tickets to lottery retailers,
22 revenues received, claims for prizes, prizes paid, and all
23 other financial transactions of the corporation.

24 (c) No employee of the corporation shall be deemed a
25 state employee or entitled to any benefits of a state
26 employee.

1 (d) No officer, director, or employee of the
2 corporation may have a financial interest in any vendor doing
3 business or proposing to do business with the corporation.

4 (e) No officer, director, or employee of the
5 corporation may organize, participate in, or contribute to a
6 political action committee.

7 (f) The executive director shall direct and
8 supervise all administrative and technical activities in
9 accordance with this act and with rules adopted by the
10 commission.

11 (g) The corporation shall conduct and administer
12 lottery games that provide continuing entertainment to the
13 public, maximize revenues, and ensure that the lottery is
14 operated with integrity and dignity and free of political
15 influence.

16 Section 6. Statewide Network of Retailers.

17 (a) The Legislature hereby recognizes that to
18 conduct a successful lottery, the corporation must develop and
19 maintain a statewide network of lottery retailers that will
20 serve the public convenience and promote the sale of tickets,
21 while insuring the integrity of the lottery.

22 (b) A lottery retailer may not be engaged
23 exclusively in the sale of lottery tickets. However, this
24 subsection does not preclude the corporation from contracting
25 for the sale of lottery tickets with nonprofit, charitable
26 organizations or units of local government in accordance with
27 this act.

1 (c) Each lottery retailer shall be issued a lottery
2 retailer certificate that shall be conspicuously displayed at
3 the place where the lottery retailer is authorized to sell
4 lottery tickets.

5 (d) Except as otherwise provided in subsection (e)
6 and except for lottery vending machines located in factories
7 or package liquor stores, bars, or taverns to which persons
8 under the age of 18 years are not permitted access or operated
9 by blind persons as a part of a program established by a
10 federal or state law, a lottery retailer shall locate all
11 vending machines from which lottery tickets are dispensed in
12 the sight of an employee of the lottery retailer.

13 (e) Lottery kiosks or vending machines that are
14 equipped with ID readers that determine the player is of legal
15 age may be located out of sight of an employee of the lottery
16 retailer.

17 Section 7. Proceeds from Ticket Sales; Rule
18 Governing Retailers' Deposit of Lottery Proceeds.

19 (a) All proceeds from the sale of lottery tickets,
20 net of allowable sales commissions and credit for lottery
21 prizes paid to winners by lottery retailers, shall constitute
22 a trust fund until paid to the corporation either directly, or
23 through the corporation's authorized collection
24 representative. Proceeds shall include unsold instant tickets
25 received by a lottery retailer and cash proceeds of sale of
26 any lottery products. Sales proceeds and unused instant
27 tickets shall be delivered to the corporation or its

1 authorized collection representative upon demand. The
2 corporation shall require retailers to place all lottery
3 proceeds due the corporation in accounts in institutions
4 insured by the Federal Deposit Insurance Corporation or
5 Federal Savings and Loan Insurance Corporation not later than
6 the close of the next banking day after the date of their
7 collection by the retailer until the date they are paid over
8 to the corporation. The corporation may require a retailer to
9 establish a single separate electronic funds transfer account,
10 where available, for the purpose of receiving monies from
11 ticket sales, making payments to the corporation, and
12 receiving payments from the corporation. Lottery retailers
13 shall be personally liable for all proceeds. This section
14 shall apply to all lottery tickets generated by computer
15 terminal, other electronic device, and any other tickets
16 delivered to lottery retailers.

17 (b) Whenever any lottery retailer becomes insolvent,
18 or dies insolvent, the proceeds due the corporation from the
19 person or his or her estate shall have preference over all
20 debts or demands.

21 (c) Except as otherwise provided in subsections (d)
22 and (e), a lien is hereby given to the corporation on all
23 funds and other personal property, on all real property, and
24 on all rights to real or personal property owned or
25 subsequently acquired by each lottery retailer in the amount
26 of, and to secure, the retailer's obligations to remit lottery
27 proceeds to the corporation. The lien shall be in the amount

1 of all sums due to the corporation at any time, together with
2 all interest, penalties, fees, commissions, charges, and other
3 expenses incurred by reason of nonpayment of the lottery
4 proceeds to the corporation or in the process of collecting
5 those proceeds, and shall have priority over any other
6 obligation or liability for which the funds or real or
7 personal property are liable. The lien shall be of equal rank
8 with the tax liens of the state, or any city, county, or other
9 taxing authority within the state. The lien shall arise upon
10 the receipt of lottery proceeds by the retailer, whether or
11 not the retailer is at that time obligated to remit all or any
12 portion of those proceeds to the corporation, and shall be
13 enforceable until the liability is paid or extinguished.

14 (d) The lien imposed by subsection (c) shall not be
15 valid as against any purchaser, judgment lien creditor, or
16 holder of a security interest or mechanic's lien until notice
17 of the corporation's lien has been filed by the corporation
18 with the judge of probate of any county or counties in which
19 the retailer's business or residence is located, or in any
20 county in which the retailer has an interest in property. The
21 recording of the lien shall constitute notice of both the
22 original obligation to the corporation and all subsequent
23 obligations to the corporation of the same retailer. Upon
24 request, the corporation shall disclose the specific amount of
25 liability at any given date to any interested party legally
26 entitled to the information.

1 (e) The lien imposed by subsection (c) shall not be
2 valid with respect to a security interest which comes into
3 existence after the notice of lien has been filed by reason of
4 disbursements made within 45 days after the date the lien was
5 filed or the date the person making the disbursements had
6 actual notice of the lien filing, whichever is earlier, if the
7 security interest is both of the following:

8 (1) In property that at the time of filing is
9 subject to the lien imposed by subsection (c), and is covered
10 by the terms of a written agreement entered into before the
11 lien is filed.

12 (2) Protected under local law against a judgment
13 lien arising as of the time of the lien filing, out of an
14 unsecured obligation.

15 (f) The corporation shall be afforded the same
16 rights and remedies with respect to enforcement of any lien
17 and collection of lottery proceeds as is afforded state,
18 county, city, and other taxing authorities.

19 Section 8. Computation of Retailer's Rental
20 Payments.

21 If a lottery retailer's rental payments for the
22 business premises are contractually computed, in whole or in
23 part, on the basis of a percentage of retail sales, and the
24 computation of retail sales is not explicitly defined to
25 include sales of tickets in a state operated lottery, the
26 compensation received by the lottery retailer from the lottery

1 shall be considered the amount of the retail sale for purposes
2 of computing the rental payment.

3 Section 9. Verification Rules and Prize Payments.

4 (a) The commission shall adopt rules to establish a
5 system of verifying the validity of tickets claimed to win
6 prizes and to effect payment of such prizes, except that:

7 (1) No prize, any portion of a prize, or any right
8 of any person to a prize awarded is assignable. Any prize, or
9 portion thereof, remaining unpaid at the death of a prize
10 winner shall be paid to the estate of the deceased prize
11 winner or to the trustee under a revocable living trust
12 established by the deceased prize winner as settlor, provided
13 that a copy of the trust has been filed with the corporation
14 along with a notarized letter of direction from the settlor
15 and no written notice of revocation has been received by the
16 corporation prior to the settlor's death. Following the death
17 of the settlor and prior to any payment to the trustee, the
18 corporation shall obtain from the trustee and each trust
19 beneficiary a written agreement to indemnify and hold the
20 corporation harmless with respect to any claims that may be
21 asserted against the corporation arising from payment to or
22 through the trust. Notwithstanding any other provision of this
23 section, any person, pursuant to an appropriate judicial
24 order, shall be paid the prize to which a winner is entitled.

25 (2) No prize shall be paid arising from claimed
26 tickets that are stolen, counterfeit, altered, fraudulent,
27 unissued, produced or issued in error, unreadable, not

1 received or not recorded by the corporation within applicable
2 deadlines, lacking in captions that conform and agree with the
3 play symbols as appropriate to the lottery game involved, or
4 not in compliance with additional specific rules and public or
5 confidential validation and security tests of the corporation
6 appropriate to the particular lottery game involved.

7 (3) No particular prize in any lottery game shall be
8 paid more than once, and in the event of a binding
9 determination that more than one claimant is entitled to a
10 particular prize, the sole remedy of such claimants is the
11 award to each of them of an equal share in the prize.

12 (4) A holder of a winning cash ticket from an
13 Alabama Lottery game shall claim the prize within 365 days
14 after the drawing in which the prize was won. A holder of a
15 winning ticket from a multistate lottery game shall claim the
16 prize within 180 days after the drawing in which the prize was
17 won. In any Alabama Lottery game in which the player may
18 determine instantly if he or she has won or lost, he or she
19 shall claim a prize within 365 days after the purchase of the
20 ticket, or within 180 days after the purchase of the ticket
21 for a multistate lottery. If a valid claim is not made for a
22 prize within the applicable period, the prize shall constitute
23 an unclaimed prize for purposes of subsection (b).

24 (5) No prize shall be paid upon a ticket purchased
25 or sold in violation of this act. Any such prize shall
26 constitute an unclaimed prize for purposes of subsection (b).

1 (b) Any unclaimed prize money may be retained by the
2 corporation and added to the pool from which future prizes are
3 to be awarded or used for special prize promotions. A portion
4 of the unclaimed prize money, not to exceed two hundred
5 thousand dollars (\$200,000) annually, shall be directed to the
6 Alabama Department of Public Health for the treatment of
7 compulsive gaming disorder and educational programs related to
8 such programs.

9 (c) Upon payment of a prize, the corporation is
10 discharged of all liability.

11 (d) No ticket may be purchased by and no prize may
12 be paid to any of the following persons:

13 (1) Any member of the board of directors, officers,
14 or employees of the corporation.

15 (2) Any vendor or related entity, or any member of
16 the commission, officers, employees of, partners in, or owners
17 of any vendor or related entity to a vendor.

18 (3) Any spouse, child, brother, sister, or parent
19 residing as a member of the same household in the principal
20 place of abode of any person listed in this subsection.

21 (e) The winner of any prize of two hundred fifty
22 thousand dollars (\$250,000) or higher may elect to remain
23 anonymous.

24 Section 10. Procurement Procedures.

25 The corporation shall adopt rules establishing its
26 procurement procedures. The rules shall be designed to provide
27 for the purchase of supplies, equipment, services, and

1 construction items that provide the greatest long term benefit
2 to the state, the greatest integrity for the corporation, and
3 the best service and products for the public.

4 Section 11. Content of Contracts; Powers of
5 Executive Director in Regard to Contracts.

6 (a) Any contract executed by the corporation
7 pursuant to this act shall specify the reasons for which any
8 contract may be suspended, revoked, or terminated by the
9 corporation, including, but not limited to, any of the
10 following:

11 (1) Commission of a violation of this act or rules
12 adopted pursuant to this act.

13 (2) Failure to accurately account for lottery
14 tickets, revenues, or prizes as required by the corporation.

15 (3) Commission of fraud, deceit, or
16 misrepresentation.

17 (4) Insufficient sale of tickets.

18 (5) Conduct prejudicial to public confidence in the
19 lottery.

20 (6) Any material change in any matter considered by
21 the corporation in executing the contract with the retailer.

22 (b) If the executive director determines the denial,
23 revocation, suspension, or rejection of renewal of a contract
24 under this section is in the best interests of the lottery,
25 the public welfare, or the State of Alabama, the executive
26 director, after notice and a hearing, may deny the contract or
27 suspend, revoke, or terminate a contract entered into pursuant

1 to this act. A contract may be temporarily suspended by the
2 executive director without prior notice pending any
3 prosecution, hearing, or investigation, whether by a third
4 party or by the executive director. A contract may be
5 suspended, revoked, or terminated by the executive director
6 for one or more of the reasons enumerated in subsection (a).

7 Section 12. This act shall take effect immediately
8 upon its passage and approval by the Governor or upon its
9 otherwise becoming law, and shall become operative only upon
10 ratification by the voters of Alabama of the constitutional
11 amendment contained in House Bill ___ of the 2022 Regular
12 Session of the Alabama Legislature. In the event the
13 constitutional amendment contained in House Bill ___ of the
14 2022 Regular Session of the Legislature is not ratified by the
15 voters of Alabama, this act is void.