

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND SIXTH LEGISLATURE

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Legislative Document

No. 1390

H. P. 1046

House of Representatives, March 6, 1973

Referred to Committee on State Government. Sent up for concurrence and ordered printed.

E. LOUISE LINCOLN, Clerk

Presented by Mr. Maxwell of Jay.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-THREE

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AN ACT Providing a State Lottery for Housing for the Elderly.

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Be it enacted by the People of the State of Maine, as follows:

R. S., T. 8, c. 14, additional. Title 8 of the Revised Statutes is amended by adding a new chapter 14 to read as follows:

CHAPTER 14

LOTTERY

§ 351. Short title

This chapter shall be known and may be cited as the "State Lottery Law."

§ 352. Purpose

This chapter is enacted to establish a lottery to be operated by the State, the net proceeds of which are to be applied exclusively for the purpose of providing housing for the elderly.

§ 353. Definitions

As used in this chapter, unless the context otherwise indicates, the following words shall have the following meanings.

1. "Commission" means the State Lottery Commission and "chairman" means the Chairman of the State Lottery Commission.

2. "Lottery" means the lottery operated by the State pursuant to this chapter.

3. "Tax Assessor" means the State Tax Assessor.

**§ 354. State Lottery Commission, Chairman**

There is created within the Department of Finance and Administration a State Lottery Commission, which shall consist of a chairman and 2 other members, all of whom are citizens and residents of the State. No more than 2 of the 3 members shall belong to the same political party. The chairman shall be appointed by the Governor, by and with the advice and consent of the Council, and shall hold office at the pleasure of the Governor. The chairman shall devote his entire time to the duties of his office. The 2 other members of the commission shall be appointed by the Governor, by and with the advice and consent of the Council, for 3 years, provided that of the members of the commission first appointed, one shall be appointed for a term of 2 years and one for a term of 3 years. Their successors shall be appointed for terms of 3 years. The chairman shall receive an annual salary within the amount appropriated therefor. The members of the commission shall receive actual and necessary expenses incurred by them in the performance of their duties under this chapter. The members of the commission, other than the chairman, shall receive a per diem allowance, to be fixed by the Governor within the amount made available therefor by appropriation, for each day actually spent in the performance of their duties under this chapter. Vacancies in the commission, other than in the office of the chairman, occurring otherwise than by expiration of term shall be filled for the unexpired term in the same manner as original appointments. Any member of the commission, other than the chairman, may, after notice and opportunity to be heard, be removed by the Governor for neglect of duty or misfeasance in office, and such a member of the commission may be removed for other cause by the Governor.

**§ 355. Powers and duties of State Lottery Commission**

The commission shall advise and make recommendations to the Tax Assessor regarding the functions and operations of the State lottery.

**§ 356. Powers and duties of Tax Assessor**

1. Powers. In addition to the powers and duties provided in other sections of this chapter, the Tax Assessor shall have the power and it shall be his duty to operate and administer the lottery, and to promulgate rules and regulations governing the establishment and operation thereof, including, but not limited to, the following:

- A. The type of lottery to be conducted;
- B. The price, or prices of a ticket or tickets in the lottery;
- C. The numbers and sizes of the prizes on the winning tickets;
- D. The manner of selecting the winning tickets;
- E. The manner of payment of prizes to the holders of winning tickets;
- F. The frequency of the drawings or selections of winning tickets;
- G. Without limit as to number, the type or types of locations at which tickets may be sold.

- H. The method to be used in selling tickets;
- I. The use of vending machines or mechanical devices of any kind;
- J. The compensation in such manner and amounts and subject to such limitations as the Tax Assessor may determine to licensed sellers of lottery tickets, but only where the Tax Assessor finds that such compensation is necessary to assure adequate availability of lottery tickets, and that the public convenience will be served thereby.

2. Minors. If the person entitled to a prize on any winning ticket is a minor and such prize is less than \$5,000, the Tax Assessor may pay the prize to such minor if he is 18 years of age or more, or, if he is less than 18 years of age, may make payment by delivery to an adult member of the minor's family or a guardian of the minor of a check or draft payable to the order of such minor. If the person entitled to a prize on any winning ticket is a minor and if such prize is \$5,000 or more, the Tax Assessor may make payment to such minor depositing the amount of the prize in any bank to the credit of an adult member of the minor's family or a guardian of the minor as custodian for such minor. The Tax Assessor shall be discharged of all further liability upon payment of a prize to a minor pursuant to this subsection.

3. Agents. The Tax Assessor is authorized to license agents to sell tickets for the state lottery. The Tax Assessor may require a bond from any licensed agent, in an amount to be determined by the Tax Assessor. Every licensed agent shall prominently display his license, or a copy thereof, as may be determined by rules and regulations of the Tax Assessor, in each place of business or activity where lottery tickets are sold.

4. Report. The Tax Assessor shall make an annual report, which shall include a full and complete statement of lottery revenues, prize disbursements and other expenses, to the Governor, the Legislature and the commission. The Tax Assessor shall make a monthly report to the Governor, the Legislature and the commission, which shall include a summary of lottery revenues, prize disbursements and other expenses for the month preceding such report.

#### § 357. Lottery sales agents

1. Agents. The Tax Assessor may license as agents to sell lottery tickets such persons as in his opinion will best serve public convenience, except that no license shall be issued to any person to engage in business exclusively as a lottery sales agent.

2. Person defined. For purposes of this chapter, the term "person" shall be construed to mean and include an individual, partnership, association, organization, club, company, corporation, trust, estate, society, joint stock company receiver, trustee, assignee, referee, or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals. "Person" shall also be construed to mean and include agencies and instrumentalities of the State, counties and municipalities.

3. Recommendation. No license shall be issued to a person unless the Tax Assessor has recommended that licenses be issued to persons engaged

in the type or class of business or activity in which such person is engaged. In addition to the recommendation of the commission, before issuing a license to any person engaged in any such type or class of business or activity, the Tax Assessor shall consider, with respect to such person:

- A. Financial responsibility and security of the business or activity;
- B. Accessibility of the place of business or activity to the public;
- C. Sufficiency of existing licenses to serve public convenience;
- D. Whether place of business or activity is predominantly frequented by minors;
- E. Volume of expected sales.

4. Claims. A licensed sales agent is authorized to submit a claim for credit, and a former licensed lottery sales agent is authorized to submit a claim for refund or credit, on account of physical loss due to theft, fire or other occurrence not occasioned by the negligence of such agent, of lottery tickets or money received from the sale of lottery tickets. Such claim shall be allowed upon the certification of the Tax Assessor that the loss occurred without negligence on the part of such agent or former agent, after audit and approval by the State Auditor. Any claim for refund or credit pursuant to this chapter must be made within 6 months from the date of the event giving rise to the claim or from the effective date of this chapter, whichever period is longer. A refund made pursuant to this chapter shall be made from money received from the sale of lottery tickets.

#### § 358. Authorization of lottery sales agents

Notwithstanding any other provision of law, any agent licensed as provided in this chapter is authorized and empowered to act as a lottery agent.

#### § 359. Suspension and revocation of licenses

1. Suspension or revocation. The Tax Assessor may suspend or revoke, after notice and hearing, any license issued pursuant to this chapter. Such license may be temporarily suspended by the Tax Assessor without prior notice, pending any prosecution, investigation or hearing. A license may be suspended or revoked by the Tax Assessor for one or more of the following reasons:

- A. Failure to account for lottery tickets received or for the proceeds of the sale of lottery tickets or to file a bond if required by the Tax Assessor or to comply with instructions of the Tax Assessor concerning the licensed activity;
- B. Conviction of any offense as defined in the penal law;
- C. Failure to file any return or report or to keep records or to pay any tax required by this chapter;
- D. Fraud, deceit, misrepresentation or conduct prejudicial to public confidence in the state lottery;

E. Number of lottery tickets sold by the lottery sales agent is insufficient to meet administrative costs and public convenience is adequately served by other licensees;

F. A material change, since issuance of the license, with respect to any matters required to be considered by the Tax Assessor.

§ 360. Other statutes not applicable

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

§ 361. Lottery tickets

Lottery tickets shall be in such form as the Tax Assessor may prescribe. Payment of prizes shall be made to holders of the tickets to which prizes are awarded, except that payment of any prize drawn may be paid to the estate of a deceased prize winner, and except that any person pursuant to an appropriate judicial order may be paid the prize to which the winner is entitled. The Tax Assessor shall be discharged of all further liability upon payment of a prize pursuant to this section. No ticket shall be sold at a price greater than that fixed by the Tax Assessor nor shall a sale be made by any person other than a licensed lottery sales agent, and a violation of these provisions shall be a misdemeanor, but this shall not be deemed to prevent any person from giving lottery tickets as premiums to customers, employees or others dealing with him.

§ 362. Sales to certain persons prohibited

No ticket shall be sold to any person actually or apparently under the age of 18 years, but this shall not be deemed to prohibit the purchase of a ticket for the purpose of making a gift by a person 18 years of age or older to a person less than that age. Any licensee or the employee or agent of any licensee who sells or offers to sell a lottery ticket to any person actually or apparently under the age of 18 years shall be guilty of a misdemeanor.

No ticket shall be sold to, and no prize shall be paid to any of the following persons: Any officer or employee of the Department of Finance and Administration, any member of the commission, or any spouse, child, brother, sister or parent residing as a member of the same household in the principal place of abode of any of the foregoing persons.

§ 363. Unclaimed prize money

Unclaimed prize money for the prize on a winning ticket shall be retained by the Tax Assessor for payment to the person entitled thereto for one year after the drawing in which the prize was won. If no claim is made for the prize within one year from the date of such drawing, the prize money shall be paid to the Treasurer of State.

§ 364. Designation of banks; performance of certain functions

The Tax Assessor, in his discretion, may require any or all lottery sales agents to deposit to the Tax Assessor's credit in banks, banking houses or

trust companies designated by him all moneys received by such agents from the sale of lottery tickets an amount retained pursuant to section 356, subsection 1, paragraph J, and to file with him or his designated agents reports of their receipts and transactions in the sale of lottery tickets in such form and containing such information as he may require. He shall designate only such banks, banking houses or trust companies as may be qualified to receive deposits made by him pursuant to section 365. The Tax Assessor may make arrangements for any person, including a bank, banking house or trust company to perform such functions, activities or services in connection with the operation of the lottery as he may prescribe and such functions, activities and services shall constitute lawful functions, activities and services of such person.

§ 365. Disposition of revenues

All moneys received by the Tax Assessor from the sale of lottery tickets shall be deposited as provided, and all payments or withdrawals of any moneys so deposited shall be made by checks signed and countersigned as provided by law. Such moneys, to the extent necessary, shall be used for the payment of lottery prizes, but the amount so used shall in no event exceed 40% of the total amount for which tickets have been sold. On or before the 20th day of each month, the Tax Assessor shall pay into the State Treasury, to the credit of the State Lottery Fund which is hereby created, not less than 45% of the total amount for which tickets have been sold during the preceding month, and within 20 days after any award of lottery prizes, he shall pay into the State Treasury, to the credit of the State Lottery Fund, the balance of all moneys received from the sale of tickets for the lottery in which such prizes were awarded, remaining after provision for the payment of prizes, as herein provided.

All moneys in the State Lottery Fund, not otherwise expended, shall be paid to the Maine Housing Authority for the construction of housing for the elderly.

#### STATEMENT OF FACT

The purpose of this bill is to establish a commission of 3 to operate a State Lottery. Proceeds from the lottery shall be utilized by the Maine Housing Authority to construct housing for the elderly. Rentals would then be set by the Authority at a rate not to exceed 20% of the tenants income.