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\*\*\* Current through the 2020 Regular Session \*\*\*

TITLE 50. STATE GOVERNMENT  
CHAPTER 27. LOTTERY FOR EDUCATION  
ARTICLE 1. GENERAL PROVISIONS

O.C.G.A. § **50-27-1** (2020)

§ **50-27-1. Short title**

This chapter shall be known and may be cited as the "Georgia Lottery for Education Act."

§ **50-27-2. Legislative findings and declarations**

It is found and declared by the General Assembly:

(1) That net proceeds of lottery games conducted pursuant to this chapter shall be used to support improvements and enhancements for educational purposes and programs and that such net proceeds shall be used to supplement, not supplant, existing resources for educational purposes and programs;

(2) That lottery games are an entrepreneurial enterprise and that the state shall create a public body, corporate and politic, known as the Georgia Lottery Corporation, with comprehensive and extensive powers as generally exercised by corporations engaged in entrepreneurial pursuits;

(3) That lottery games shall be operated and managed in a manner which provides continuing entertainment to the public, maximizes revenues, and ensures that the lottery is operated with integrity and dignity and free of political influence; and

(4) That the Georgia Lottery Corporation shall be accountable to the General Assembly and to the public through a system of audits and reports.

§ **50-27-3. Definitions**

As used in this chapter, the term:

(1) "Administrative expenses" means operating expenses, excluding amounts set aside for prizes, regardless of whether such prizes are claimed and excluding amounts held as a fidelity fund pursuant to Code Section 50-27-19.

(2) "Assignee" means any person or third party other than the winner to whom any portion of a prize or any right of any person to a prize awarded payable by the corporation in installment payments may be transferred or assigned pursuant to an appropriate judicial order as provided in Code Section 50-27-24.1.

(3) "Assignment" means the transfer of any portion of a prize or any right of any person to a prize awarded payable by the corporation in installment payments to any person or third party pursuant to an appropriate judicial order as provided in Code Section 50-27-24.1.

(4) "Assignor" means any person receiving installment payments seeking to assign or transfer any portion of a prize or any right of any person to a prize awarded to an assignee or any person or third party pursuant to an appropriate judicial order as provided in Code Section 50-27-24.1.

(5) "Board" means the board of directors of the Georgia Lottery Corporation.

(6) "Capital outlay projects" means the acquisition, construction, installation, modification, renovation, repair, extension, renewal, replacement, or rehabilitation of land, interests in land, buildings, structures, facilities, or other improvements and the acquisition, installation, modification, renovation, repair, extension, renewal, replacement, rehabilitation, or furnishing of fixtures, machinery, equipment, computers, software, laboratories, furniture, textbooks, and reference material or other property of any nature whatsoever used on, in, or in connection with educational facilities.

(7) "Casino gambling" means a location or business for the purpose of conducting illegal gambling activities, but excluding the sale and purchase of lottery tickets or shares as authorized by this chapter.

(8) "Chief executive officer" means the chief executive officer of the Georgia Lottery Corporation.

(9) "Corporation" means the Georgia Lottery Corporation.

(10) "Educational facilities" means land, structures, and buildings owned or operated by and through the board of regents, the State Board of Education, the Technical College System of Georgia, or by any city, county, or independent school system within this state; provided, however, that a public road or highway leading to an educational facility shall not be considered an educational facility.

(11) "Educational purposes and programs" means capital outlay projects for educational facilities; tuition grants, scholarships, or loans to citizens of this state to enable such citizens to attend colleges and universities located within this state, regardless of whether such colleges and universities are owned or operated by the board of regents or to attend institutions operated under the authority of the Technical College System of Georgia; costs of providing to teachers at accredited public institutions who teach levels K-12, personnel at public postsecondary technical institutes under the authority of the Technical College System of Georgia, and professors and instructors within the University System of Georgia the necessary training in the use and application of computers and advanced electronic

instructional technology to implement interactive learning environments in the classroom and to access the state-wide distance learning network; costs associated with repairing and maintaining advanced electronic instructional technology; voluntary pre-kindergarten; and an education shortfall reserve.

(12) "Interested party" means any individual or entity that has notified the corporation of his or her interest in the prize or is a party to a civil matter adverse to the assignor, including actions for alimony and child support.

(13) "Lottery," "lotteries," "lottery game," or "lottery games" means any game of chance approved by the board and operated pursuant to this chapter, including, but not limited to, instant tickets, on-line games, and games using mechanical or electronic devices but excluding pari-mutuel betting and casino gambling as defined in this Code section.

(14) "Major procurement contract" means any gaming product or service costing in excess of \$75,000.00, including, but not limited to, major advertising contracts, annuity contracts, prize payment agreements, consulting services, equipment, tickets, and other products and services unique to the Georgia lottery, but not including materials, supplies, equipment, and services common to the ordinary operations of a corporation.

(15) "Member" or "members" means a director or directors of the board of directors of the Georgia Lottery Corporation.

(16) "Member of a minority" means an individual who is a member of a race which comprises less than 50 percent of the total population of the state.

(17) "Minority business" means any business which is owned by:

(A) An individual who is a member of a minority who reports as his or her personal income for Georgia income tax purposes the income of such business;

(B) A partnership in which a majority of the ownership interest is owned by one or more members of a minority who report as their personal income for Georgia income tax purposes more than 50 percent of the income of the partnership; or

(C) A corporation organized under the laws of this state in which a majority of the common stock is owned by one or more members of a minority who report as their personal income for Georgia income tax purposes more than 50 percent of the distributed earnings of the corporation.

(18) "Net proceeds" means all revenue derived from the sale of lottery tickets or shares and all other moneys derived from the lottery less operating expenses.

(19) "Operating expenses" means all costs of doing business, including, but not limited to, prizes, commissions, and other compensation paid to retailers, advertising and marketing costs, personnel costs, capital costs, depreciation of property and equipment, funds for compulsive gambling education and treatment, amounts held in or paid from a fidelity fund pursuant to Code Section 50-27-19, and other operating costs.

(20) "Pari-mutuel betting" means a method or system of wagering on actual races involving horses or dogs at tracks which involves the distribution of winnings by pools. Such term shall not mean lottery games which may be predicated on a horse racing or dog racing scheme that does not involve actual track events. Such term shall not mean traditional lottery games which may involve the distribution of winnings by pools.

(21) "Person" means any individual, corporation, partnership, unincorporated association, or other legal entity.

(22) "Retailer" means a person who sells lottery tickets or shares on behalf of the corporation pursuant to a contract.

(23) "Share" means any intangible evidence of participation in a lottery game.

(24) "Ticket" means any tangible evidence issued by the lottery to provide participation in a lottery game.

(25) "Vendor" means a person who provides or proposes to provide goods or services to the corporation pursuant to a major procurement contract, but does not include an employee of the corporation, a retailer, or a state agency or instrumentality thereof. Such term does not include any corporation whose shares are publicly traded and which is the parent company of the contracting party in a major procurement contract.

#### **§ 50-27-4. Georgia Lottery Corporation created; venue**

There is created a body corporate and politic to be known as the Georgia Lottery Corporation which shall be deemed to be an instrumentality of the state, and not a state agency, and a public corporation. Venue for the corporation shall be in Fulton County.

#### **§ 50-27-5. Membership of board of directors; appointment; terms; filling of vacancies; conflict of interests; reimbursement for expenses; officers; quorum**

(a) The corporation shall be governed by a board of directors composed of seven members to be appointed by the Governor. Members shall be appointed with a view toward equitable geographic representation.

(b) Members shall be residents of the State of Georgia, shall be prominent persons in their businesses or professions, and shall not have been convicted of any felony offense. The Governor should consider appointing to the board an attorney, an accountant, and a person having expertise in marketing.

(c) Members shall serve terms of five years, except that of the initial members appointed, three shall be appointed for initial terms of two years, two shall be appointed for initial terms of four years, and two shall be appointed for initial terms of five years. Any vacancy occurring on the board shall be filled by the Governor by appointment for the unexpired term.

(d) All members appointed by the Governor shall be confirmed by the Senate. Members appointed when the General Assembly is not in regular session shall serve only until the Senate has confirmed the appointment at the next regular or special session of the General Assembly. If the Senate refuses to confirm an appointment, the member shall vacate his office on the date the confirmation fails.

(e) Members of the board shall not have any direct or indirect interest in an undertaking that puts their personal interest in conflict with that of the corporation, including, but not limited to, an interest in a major procurement contract or a participating retailer.

(f) Upon approval by the chairperson, members of the board shall be reimbursed for actual and reasonable expenses incurred for each day's service spent in the performance of the duties of the corporation.

(g) The members shall elect from their membership a chairperson and vice chairperson. The members shall also elect a secretary and treasurer who can be the chief executive officer of the corporation. Such officers shall serve for such terms as shall be prescribed by the bylaws of the corporation or until their respective successors are elected and qualified. No member of the board shall hold more than any one office of the corporation, except that the same person may serve as secretary and treasurer.

(h) The board of directors may delegate to any one or more of its members, to the chief executive officer, or to any agent or employee of the corporation such powers and duties as it may deem proper.

(i) A majority of members in office shall constitute a quorum for the transaction of any business and for the exercise of any power or function of the corporation.

(j) Action may be taken and motions and resolutions adopted by the board at any meeting thereof by the affirmative vote of a majority of present and voting board members.

(k) No vacancy in the membership of the board shall impair the right of the members to exercise all the powers and perform all the duties of the board.

#### **§ 50-27-6. Lottery Retailer Advisory Board**

(a) The chairperson of the board of directors shall appoint a Lottery Retailer Advisory Board to be composed of ten lottery retailers representing the broadest possible spectrum of geographical, racial, and business characteristics of lottery retailers. The function of the advisory board shall be to advise the board of directors on retail aspects of the lottery and to present the concerns of lottery retailers throughout the state.

(b) Members appointed to the Lottery Retailer Advisory Board shall serve terms of two years; provided, however, that five of the initial appointees shall serve initial terms of one year.

(c) The advisory board shall establish its own rules and internal operating procedures. Members of the advisory board shall serve without compensation or reimbursement of

expenses. The advisory board may report to the board of directors or to the oversight committee in writing at any time. The board of directors may invite the advisory board to make an oral presentation to the board of directors at regular meetings of the board.

#### **§ 50-27-7. General duties of board of directors**

The board of directors shall provide the chief executive officer with private-sector perspectives of a large marketing enterprise. The board shall:

- (1) Approve, disapprove, amend, or modify the budget recommended by the chief executive officer for the operation of the corporation;
- (2) Approve, disapprove, amend, or modify the terms of major lottery procurements recommended by the chief executive officer;
- (3) Hear appeals of hearings required by this chapter;
- (4) Adopt regulations, policies, and procedures relating to the conduct of lottery games and as specified in Code Section 50-27-9; and
- (5) Perform such other functions as specified by this chapter.

#### **§ 50-27-8. Appointment of chief executive officer; compensation**

The board of directors shall appoint and shall provide for the compensation of a chief executive officer who shall be an employee of the corporation and who shall direct the day-to-day operations and management of the corporation and shall be vested with such powers and duties as specified by the board and by law. The chief executive officer shall serve at the pleasure of the board.

#### **§ 50-27-9. General powers of corporation**

(a) The corporation shall have any and all powers necessary or convenient to its usefulness in carrying out and effectuating the purposes and provisions of this chapter which are not in conflict with the Constitution of this state and which are generally exercised by corporations engaged in entrepreneurial pursuits, including, but without limiting the generality of the foregoing, the following powers:

- (1) To sue and be sued in contract and in tort and to complain and defend in all courts;
- (2) To adopt and alter a seal;
- (3) To adopt, amend, and repeal bylaws, regulations, and policies and procedures for the regulation of its affairs and the conduct of its business; to elect and prescribe the duties of officers and employees of the corporation; and to perform such other matters as the corporation may determine. In the adoption of bylaws, regulations, policies, and procedures or in the exercise of any regulatory power, the corporation shall be exempt from the requirements of Chapter 13 of this title, the "Georgia Administrative Procedure Act";

- (4) To procure or to provide insurance;
- (5) To hold copyrights, trademarks, and service marks and enforce its rights with respect thereto;
- (6) To initiate, supervise, and administer the operation of the lottery in accordance with the provisions of this chapter and regulations, policies, and procedures adopted pursuant thereto;
- (7) To enter into written agreements with one or more other states or sovereigns for the operation, participation in marketing, and promotion of a joint lottery or joint lottery games;
- (8) To conduct such market research as is necessary or appropriate, which may include an analysis of the demographic characteristics of the players of each lottery game and an analysis of advertising, promotion, public relations, incentives, and other aspects of communication;
- (9) To acquire or lease real property and make improvements thereon and acquire by lease or by purchase personal property, including, but not limited to, computers; mechanical, electronic, and on-line equipment and terminals; and intangible property, including, but not limited to, computer programs, systems, and software;
- (10) To enter into contracts to incur debt in its own name and enter into financing agreements with the state, agencies or instrumentalities of the state, or with any commercial bank or credit provider; provided, however, that any such debt must be approved by the Georgia State Financing and Investment Commission;
- (11) To be authorized to administer oaths, take depositions, issue subpoenas, and compel the attendance of witnesses and the production of books, papers, documents, and other evidence relative to any investigation or proceeding conducted by the corporation;
- (12) To appoint and select officers, agents, and employees, including professional and administrative staff and personnel and hearing officers to conduct hearings required by this chapter, and to fix their compensation, pay their expenses, and provide a benefit program, including, but not limited to, a retirement plan and a group insurance plan;
- (13) To select and contract with vendors and retailers;
- (14) To enter into contracts or agreements with state or local law enforcement agencies, including the Department of Revenue, for the performance of law enforcement, background investigations, security checks, and auditing and enforcement of license requirements required by Article 3 of this chapter;
- (15) To enter into contracts of any and all types on such terms and conditions as the corporation may determine;
- (16) To establish and maintain banking relationships, including, but not limited to, establishment of checking and savings accounts and lines of credit;

(17) To advertise and promote the lottery and lottery games;

(18) To act as a retailer, to conduct promotions which involve the dispensing of lottery tickets or shares, and to establish and operate a sales facility to sell lottery tickets or shares and any related merchandise; and

(19) To adopt and amend such regulations, policies, and procedures as necessary to carry out and implement its powers and duties, organize and operate the corporation, regulate the conduct of lottery games in general, and any other matters necessary or desirable for the efficient and effective operation of the lottery or the convenience of the public. The promulgation of any such regulations, policies, and procedures shall be exempt from the requirements of Chapter 13 of this title, the "Georgia Administrative Procedure Act."

(b) The powers enumerated in subsection (a) of this Code section are cumulative of and in addition to those powers enumerated elsewhere in this chapter, and no such powers limit or restrict any other powers of the corporation.

**§ 50-27-10. Adoption by board of procedures regulating conduct of lottery games**

The board may adopt regulations, policies, and procedures regulating the conduct of lottery games in general, including, but not limited to, regulations, policies, and procedures specifying:

(1) The type of games to be conducted, including, but not limited to, instant lotteries, on-line games, and other games traditional to the lottery. Such games may include the selling of tickets or shares or the use of electronic or mechanical devices;

(2) The sale price of tickets or shares and the manner of sale; provided, however, that all sales shall be for cash only and payment by checks, credit cards, charge cards, or any form of deferred payment is prohibited;

(3) The number and amount of prizes;

(4) The method and location of selecting or validating winning tickets or shares;

(5) The manner and time of payment of prizes, which may include lump sum payments or installments over a period of years;

(6) The manner of payment of prizes to the holders of winning tickets or shares, including without limitation provision for payment of prizes not exceeding \$600.00 after deducting the price of the ticket or share and after performing validation procedures appropriate to the game and as specified by the board. The board may provide for a limited number of retailers who can pay prizes of up to \$5,000.00 after performing validation procedures appropriate to the game and as specified by the board without regard to where such ticket or share was purchased;

(7) The frequency of games and drawings or selection of winning tickets or shares;



(8) The means of conducting drawings;

(9) (A) The method to be used in selling tickets or shares, which may include the use of electronic or mechanical devices, but such devices may be placed only in locations on the premises of the lottery retailer which are within the view of such retailer or an employee of such retailer. All electronic or mechanical devices shall bear a conspicuous label prohibiting the use of such device by persons under 18 years of age.

(B) A lottery retailer who knowingly allows a person under 18 years of age to purchase a lottery ticket or share from an electronic or mechanical device shall be subject to the penalties provided in Code Section 50-27-26;

(10) The manner and amount of compensation to lottery retailers; and

(11) Any and all other matters necessary, desirable, or convenient toward ensuring the efficient and effective operation of lottery games, the continued entertainment and convenience of the public, and the integrity of the lottery.

**§ 50-27-11. Duties of chief executive officer**

(a) The chief executive officer of the corporation shall direct and supervise all administrative and technical activities in accordance with the provisions of this chapter and with the regulations, policies, and procedures adopted by the board. It shall be the duty of the chief executive officer to:

(1) Facilitate the initiation and supervise and administer the operation of the lottery games;

(2) Employ and direct such personnel as deemed necessary;

(3) Employ by contract and compensate such persons and firms as deemed necessary;

(4) Promote or provide for promotion of the lottery and any functions related to the corporation;

(5) Prepare a budget for the approval of the board;

(6) Require bond from such retailers and vendors in such amounts as required by the board;

(7) Report quarterly to the state auditor, the state accounting officer, and the board a full and complete statement of lottery revenues and expenses for the preceding quarter; and

(8) Perform other duties generally associated with a chief executive officer of a corporation of an entrepreneurial nature.

(b) The chief executive officer may for good cause suspend, revoke, or refuse to renew any contract entered into in accordance with the provisions of this chapter or the regulations, policies, and procedures of the board.

(c) The chief executive officer or his designee may conduct hearings and administer oaths to persons for the purpose of assuring the security or integrity of lottery operations or to determine the qualifications of or compliance by vendors and retailers.

**§ 50-27-12. Employees; compensation; restrictions; background investigations; bonding**

(a) The corporation shall establish and maintain a personnel program for its employees and fix the compensation and terms of compensation of its employees, including, but not limited to, production incentive payments; provided, however, that production incentive payments, bonuses, or any other consideration in addition to an employee's base compensation shall not exceed 25 percent of such employee's base compensation. In total, bonuses shall not exceed 1 percent of the net increase over the prior year's deposit into the Lottery for Education Account. No bonuses may be awarded in years in which there is not a net increase over the prior year's deposit into the Lottery for Education Account.

(b) No employee of the corporation shall have a financial interest in any vendor doing business or proposing to do business with the corporation.

(c) No employee of the corporation with decision-making authority shall participate in any decision involving a retailer with whom the employee has a financial interest.

(d) No employee of the corporation who leaves the employment of the corporation may represent any vendor or lottery retailer before the corporation for a period of two years following termination of employment with the corporation.

(e) Background investigation shall be conducted on each applicant who has reached the final selection process prior to employment by the corporation at the level of division director and above and at any level within any division of security and as otherwise required by the board. The corporation shall be authorized to pay for the actual cost of such investigations and may contract with the Georgia Bureau of Investigation for the performance of such investigations. The results of such a background investigation shall not be considered a record open to the public pursuant to Article 4 of Chapter 18 of this title.

(f) No person who has been convicted of a felony or bookmaking or other forms of illegal gambling or of a crime involving moral turpitude shall be employed by the corporation.

(g) The corporation shall bond corporation employees with access to corporation funds or lottery revenue in such an amount as provided by the board and may bond other employees as deemed necessary.

**§ 50-27-13. Disposition of lottery proceeds; budget report by Governor; appropriations by General Assembly; shortfall reserve subaccount**

(a)(1) All lottery proceeds shall be the property of the corporation.

(2) From its lottery proceeds the corporation shall pay the operating expenses of the corporation. As nearly as practical, at least 45 percent of the amount of money from the actual sale of lottery tickets or shares shall be made available as prize money; provided,

however, that this paragraph shall be deemed not to create any lien, entitlement, cause of action, or other private right, and any rights of holders of tickets or shares shall be determined by the corporation in setting the terms of its lottery or lotteries.

(3) As nearly as practical, for each fiscal year, net proceeds shall equal at least 35 percent of the lottery proceeds. However, for the first two full fiscal years and any partial first fiscal year of the corporation, net proceeds need only equal 30 percent of the proceeds as nearly as practical.

(b) (1) On or before the fifteenth day of each quarter, the corporation shall transfer to the general fund of the state treasury, for credit to the Lottery for Education Account for the preceding quarter, the amount of all net proceeds during the preceding quarter. The state treasurer shall separately account for net proceeds by establishing and maintaining a Lottery for Education Account within the state treasury.

(2) Upon their deposit into the state treasury, any moneys representing a deposit of net proceeds shall then become the unencumbered property of the State of Georgia and the corporation shall have no power to agree or undertake otherwise. Such moneys shall be invested by the state treasurer in accordance with state investment practices. All earnings attributable to such investments shall likewise be the unencumbered property of the state and shall accrue to the credit of the Lottery for Education Account.

(3) A shortfall reserve shall be maintained within the Lottery for Education Account in an amount equal to at least 50 percent of net proceeds deposited into such account for the preceding fiscal year. If the net proceeds paid into the Lottery for Education Account in any year are not sufficient to meet the amount appropriated for education purposes, the shortfall reserve may be drawn upon to meet the deficiency. In the event the shortfall reserve is drawn upon and falls below 50 percent of net proceeds deposited into such account for the preceding fiscal year, the shortfall reserve shall be replenished to the level required by this paragraph in the next fiscal year and the lottery-funded programs shall be reviewed and adjusted accordingly.

(c)(1) In the budget report to the General Assembly, as a separate budget category entitled "lottery proceeds," the Governor shall estimate the amount of net proceeds and treasury earnings thereon to be credited to the Lottery for Education Account during the fiscal year and the amount of unappropriated surplus estimated to be accrued in the account at the beginning of the fiscal year. The sum of estimated net proceeds, treasury earnings thereon, and unappropriated surplus shall be designated lottery proceeds.

(2) In the budget report the Governor shall further make specific recommendations as to the education programs and purposes for which appropriations should be made from the Lottery for Education Account. The General Assembly shall appropriate from the Lottery for Education Account by specific reference to it, or by reference to "lottery proceeds." All appropriations of lottery proceeds to any particular budget unit shall be made together in a separate part entitled, identified, administered, and accounted for separately as a distinct budget unit for lottery proceeds. Such appropriations shall otherwise be made in the manner required by law for appropriations.

(3) It is the intent of the General Assembly that appropriations from the Lottery for Education Account shall be for educational purposes and projects only.

(4) If, for any educational purpose or program, less is appropriated in or during the fiscal year than is authorized, the excess shall be available for appropriation the following fiscal year and shall not retain its character as funds for the particular purpose.

(d) Appropriations for educational purposes and programs from the account not committed during the fiscal year shall lapse to the general fund and shall be credited to the Lottery for Education Account.

(e) Except as qualified by this chapter, appropriations from the Lottery for Education Fund shall be subject to Part 1 of Article 4 of Chapter 12 of Title 45, the "Budget Act."

(f) In compliance with the requirement of the Constitution that there shall be a separate accounting of lottery proceeds, no deficiency in the Lottery for Education Account shall be replenished by book entries reducing any nonlottery reserve of general funds, including specifically but without limitation the revenue shortfall reserve or the midyear adjustment reserve; such programs must be adjusted or discontinued according to available lottery proceeds unless the General Assembly by general law establishes eligibility requirements and appropriates specific funds within the general appropriations Act; nor shall any nonlottery surplus in the general fund be reduced. No surplus in the Lottery for Education Account shall be reduced to correct any nonlottery deficiencies in sums available for general appropriations, and no surplus in the Lottery for Education Account shall be included in any surplus calculated for setting aside any nonlottery reserve or midyear adjustment reserve. In calculating net revenue collections for the revenue shortfall reserve and midyear adjustment reserve, the state accounting officer shall not include the net proceeds.

#### **§ 50-27-14. Participation by minority businesses**

It is the intent of the General Assembly that the corporation encourage participation by minority businesses. Accordingly, the board of directors shall adopt a plan which achieves to the greatest extent possible a level of participation by minority businesses taking into account the total number of all retailers and vendors, including any subcontractors. The corporation is authorized and directed to undertake training programs and other educational activities to enable such minority businesses to compete for contracts on an equal basis. The board shall monitor the results of minority business participation and shall report the results of minority business participation to the Governor at least on an annual basis.

#### **§ 50-27-15. Investigation of vendors; disclosure requirements; restrictions on entry into procurement contracts**

(a) The corporation shall investigate the financial responsibility, security, and integrity of any lottery system vendor who is a finalist in submitting a bid, proposal, or offer as part of a major procurement. At the time of submitting such bid, proposal, or offer to the corporation, the corporation may require the following items:

(1) A disclosure of the vendor's name and address and, as applicable, the names and addresses of the following:

(A) If the vendor is a corporation, the officers, directors, and each stockholder in such corporation; provided, however, that in the case of owners of equity securities of a publicly

traded corporation, only the names and addresses of those known to the corporation to own beneficially 5 percent or more of such securities need be disclosed;

(B) If the vendor is a trust, the trustee and all persons entitled to receive income or benefits from the trust;

(C) If the vendor is an association, the members, officers, and directors; and

(D) If the vendor is a partnership or joint venture, all of the general partners, limited partners, or joint venturers;

(2) A disclosure of all the states and jurisdictions in which the vendor does business and the nature of the business for each such state or jurisdiction;

(3) A disclosure of all the states and jurisdictions in which the vendor has contracts to supply gaming goods or services, including, but not limited to, lottery goods and services, and the nature of the goods or services involved for each such state or jurisdiction;

(4) A disclosure of all the states and jurisdictions in which the vendor has applied for, has sought renewal of, has received, has been denied, has pending, or has had revoked a lottery or gaming license of any kind or had fines or penalties assessed to his license, contract, or operation and the disposition of such in each such state or jurisdiction. If any lottery or gaming license or contract has been revoked or has not been renewed or any lottery or gaming license or application has been either denied or is pending and has remained pending for more than six months, all of the facts and circumstances underlying the failure to receive such a license shall be disclosed;

(5) A disclosure of the details of any finding or plea, conviction, or adjudication of guilt in a state or federal court of the vendor for any felony or any other criminal offense other than a traffic violation;

(6) A disclosure of the details of any bankruptcy, insolvency, reorganization, or corporate or individual purchase or takeover of another corporation, including bonded indebtedness, or any pending litigation of the vendor; and

(7) Such additional disclosures and information as the corporation may determine to be appropriate for the procurement involved.

If at least 25 percent of the cost of a vendor's contract is subcontracted, the vendor shall disclose all of the information required by this Code section for the subcontractor as if the subcontractor were itself a vendor.

(b) A lottery procurement contract shall not be entered into with any lottery system vendor who has not complied with the disclosure requirements described in subsection (a) of this Code section, and any contract with such a vendor is voidable at the option of the corporation. Any contract with a vendor who does not comply with such requirements for periodically updating such disclosures during the tenure of contract as may be specified in such contract may be terminated by the corporation. The provisions of this Code section shall be construed broadly and liberally to achieve the ends of full disclosure of all

information necessary to allow for a full and complete evaluation by the corporation of the competence, integrity, background, and character of vendors for major procurements.

(c) A major procurement contract shall not be entered into with any vendor who has been found guilty of a felony related to the security or integrity of the lottery in this or any other jurisdiction.

(d) A major procurement contract shall not be entered into with any vendor if such vendor has an ownership interest in an entity that had supplied consultation services under contract to the corporation regarding the request for proposals pertaining to those particular goods or services.

(e) No lottery system vendor nor any applicant for a major procurement contract may pay, give, or make any economic opportunity, gift, loan, gratuity, special discount, favor, hospitality, or service, excluding food and beverages having an aggregate value not exceeding \$100.00 in any calendar year, to the chief executive officer, any board member, or any employee of the corporation or to a member of the immediate family residing in the same household as any such person.

**§ 50-27-16. Bonding requirements for vendors; qualifications of vendors; competitive bid requirement**

(a)(1) Each vendor shall, at the execution of the contract with the corporation, post a performance bond or letter of credit from a bank or credit provider acceptable to the corporation in an amount as deemed necessary by the corporation for that particular bid or contract. In lieu of the bond, a vendor may, to assure the faithful performance of its obligations, deposit and maintain with the corporation securities that are interest bearing or accruing and that are rated in one of the three highest classifications by an established nationally recognized investment rating service. Securities eligible under this Code section are limited to:

(A) Certificates of deposit issued by solvent banks or savings associations approved by the corporation and which are organized and existing under the laws of this state or under the laws of the United States;

(B) United States bonds, notes, and bills for which the full faith and credit of the government of the United States is pledged for the payment of principal and interest; and

(C) Corporate bonds approved by the corporation. The corporation which issued the bonds shall not be an affiliate or subsidiary of the depositor.

Such securities shall be held in trust and shall have at all times a market value at least equal to the full amount estimated to be paid annually to the lottery vendor under contract.

(2) Because of certain economic considerations, minority businesses may not be able financially to comply with the bonding, deposit of securities, or letter of credit requirements of paragraph (1) of this subsection. Notwithstanding any other provisions of this subsection, in order to assure minority participation in major procurement contracts to the most feasible and practicable extent possible, the chief executive officer is authorized and directed to

waive the bonding, deposit of securities, and letter of credit requirements of paragraph (1) of this subsection for a period of five years from the time that a minority business enters into a major procurement contract for any minority business which substantiates financial hardship pursuant to the policies and procedures established by the board.

(b) Each vendor shall be qualified to do business in this state and shall file appropriate tax returns as provided by the laws of this state. All contracts under this Code section shall be governed by the laws of this state.

(c) No contract shall be let with any vendor in which a public official, as defined by Code Section 45-10-20, has an ownership interest of 10 percent or more.

(d) All major procurement contracts must be competitively bid pursuant to policies and procedures approved by the board unless there is only one qualified vendor and that vendor has an exclusive right to offer the service or product.

**§ 50-27-17. State-wide network of retailers; commissions; certificate of authority; qualifications of retailers; fees for outlets; review of activities; gifts or gratuities**

(a) The General Assembly recognizes that to conduct a successful lottery, the corporation must develop and maintain a state-wide network of lottery retailers that will serve the public convenience and promote the sale of tickets or shares and the playing of lottery games while ensuring the integrity of the lottery operations, games, and activities.

(b) The corporation must make every effort to provide small retailers a chance to participate in the sales of lottery tickets or shares.

(c) The corporation shall provide for compensation to lottery retailers in the form of commissions in an amount of 6 percent of gross sales and may provide for other forms of incentive compensation beginning on July 1, 2016; provided, however, that other forms of incentive compensation may be provided beginning on July 1, 2014, if the Lottery for Education Account deposits exceed \$1 billion in the previous fiscal year or may be provided prior to July 1, 2016, as authorized by the Governor.

(d) The corporation shall issue a certificate of authority to each person with whom it contracts as a retailer for purposes of display. Every lottery retailer shall post and keep conspicuously displayed in a location on the premises accessible to the public its certificate of authority. No certificate shall be assignable or transferable.

(e) The board shall develop a list of objective criteria upon which the qualification of lottery retailers shall be based. Separate criteria shall be developed to govern the selection of retailers of instant tickets and on-line retailers. In developing these criteria, the board shall consider such factors as the applicant's financial responsibility, security of the applicant's place of business or activity, accessibility to the public, integrity, and reputation. The board shall not consider political affiliation, activities, or monetary contributions to political organizations or candidates for any public office. The criteria shall include but not be limited to the following:

(1) The applicant shall be current in filing all applicable tax returns to the State of Georgia

and in payment of all taxes, interest, and penalties owed to the State of Georgia, excluding items under formal appeal pursuant to applicable statutes. The Department of Revenue is authorized and directed to provide this information to the corporation;

(2) No person, partnership, unincorporated association, corporation, or other business entity shall be selected as a lottery retailer who:

(A) Has been convicted of a criminal offense related to the security or integrity of the lottery in this or any other jurisdiction;

(B) Has been convicted of any illegal gambling activity, false statements, false swearing, or perjury in this or any other jurisdiction or convicted of any crime punishable by more than one year of imprisonment or a fine of more than \$1,000.00 or both unless the person's civil rights have been restored and at least five years have elapsed from the date of the completion of the sentence without a subsequent conviction of a crime described in this subparagraph;

(C) Has been found to have violated the provisions of this chapter or any regulation, policy, or procedure of the corporation unless either ten years have passed since the violation or the board finds the violation both minor and unintentional in nature;

(D) Is a vendor or any employee or agent of any vendor doing business with the corporation;

(E) Resides in the same household as an officer of the corporation;

(F) Has made a statement of material fact to the corporation knowing such statement to be false; or

(G) Is engaged exclusively in the business of selling lottery tickets or shares; provided, however, that this subsection shall not preclude the corporation from selling or giving away lottery tickets or shares for promotional purposes;

(3) Persons applying to become lottery retailers shall be charged a uniform application fee for each lottery outlet. Retailers who participate in on-line games shall be charged a uniform application fee for each on-line outlet;

(4) Any lottery retailer contract executed pursuant to this Code section may, for good cause, be suspended, revoked, or terminated by the chief executive officer or his designee if the retailer is found to have violated any provision of this chapter or objective criteria established by the board. Review of such activities shall be in accordance with the procedures outlined in this chapter and shall not be subject to Chapter 13 of this title, the "Georgia Administrative Procedure Act"; and

(5) All lottery retailer contracts may be renewable annually in the discretion of the corporation unless sooner canceled or terminated.

(f) No lottery retailer or applicant to be a lottery retailer shall pay, give, or make any economic opportunity, gift, loan, gratuity, special discount, favor, hospitality, or service,



excluding food and beverages having an aggregate value not exceeding \$100.00 in any calendar year, to the chief executive officer, any board member, or any employee of the corporation or to a member of the immediate family residing in the same household as any such person.

**§ 50-27-18. Retailer contracts not transferable or assignable; restriction on contracts and sales**

(a) No lottery retailer contract shall be transferable or assignable. No lottery retailer shall contract with any person for lottery goods or services except with the approval of the board.

(b) Lottery tickets and shares shall only be sold by the retailer stated on the lottery retailer certificate.

**§ 50-27-19. Fidelity fund for retailers; assessments**

(a) The corporation may establish a fidelity fund separate from all other funds and shall assess each retailer a one-time fee not to exceed \$100.00 per sales location. The corporation is authorized to invest the funds or place such funds in one or more interest-bearing accounts. Moneys deposited to the fund may be used to cover losses the corporation experiences due to nonfeasance, misfeasance, or malfeasance of a lottery retailer. In addition, the funds may be used to purchase blanket bonds covering the Georgia Lottery Corporation against losses from all retailers. At the end of each fiscal year, the corporation shall pay to the general lottery fund any amount in the fidelity fund which exceeds \$500,000.00, and such funds shall be commingled with and treated as net proceeds from the lottery.

(b) A reserve account may be established as a general operating expense to cover amounts deemed uncollectable. The corporation shall establish procedures for minimizing any losses that may be experienced for the foregoing reasons and shall exercise and exhaust all available options in such procedures prior to amounts being written off to this account.

(c) The corporation may require any retailer to post an appropriate bond, as determined by the corporation, using an insurance company acceptable to the corporation. The amount should not exceed the applicable district sales average of lottery tickets for two billing periods.

(d)(1) In its discretion, the corporation may allow a retailer to deposit and maintain with the corporation securities that are interest bearing or accruing. Securities eligible under this paragraph shall be limited to:

(A) Certificates of deposit issued by solvent banks or savings associations organized and existing under the laws of this state or under the laws of the United States;

(B) United States bonds, notes, and bills for which the full faith and credit of the United States is pledged for the payment of principal and interest;

(C) Federal agency securities by an agency or instrumentality of the United States government.

(2) Such securities shall be held in trust in the name of the Georgia Lottery Corporation.

**§ 50-27-20. Cancellation, suspension, revocation, or termination of retail contracts**

(a) Any retail contract executed by the corporation pursuant to this chapter shall specify the reasons for which a contract may be canceled, suspended, revoked, or terminated by the corporation, which reasons shall include but not be limited to:

(1) Commission of a violation of this chapter, a regulation, or a policy or procedure of the corporation;

(2) Failure to accurately or timely account for lottery tickets, lottery games, revenues, or prizes as required by the corporation;

(3) Commission of any fraud, deceit, or misrepresentation;

(4) Insufficient sales;

(5) Conduct prejudicial to public confidence in the lottery;

(6) The retailer filing for or being placed in bankruptcy or receivership;

(7) Any material change as determined in the sole discretion of the corporation in any matter considered by the corporation in executing the contract with the retailer; or

(8) Failure to meet any of the objective criteria established by the corporation pursuant to this chapter.

(b) If, in the discretion of the chief executive officer or his designee cancellation, denial, revocation, suspension, or rejection of renewal of a lottery retailer contract is in the best interest of the lottery, the public welfare, or the State of Georgia, the chief executive officer or his designee may cancel, suspend, revoke, or terminate, after notice and a right to a hearing, any contract issued pursuant to this chapter. Such contract may, however, be temporarily suspended by the chief executive officer or his designee without prior notice pending any prosecution, hearing, or investigation, whether by a third party or by the chief executive officer. A contract may be suspended, revoked, or terminated by the chief executive officer or his designee for any one or more of the reasons enumerated in this Code section. Any hearing held shall be conducted by the chief executive officer or his designee. A party to the contract aggrieved by the decision of the chief executive officer or his designee may appeal the adverse decision to the board. Such appeal shall be pursuant to the regulations, policies, and procedures set by the board and is not subject to Chapter 13 of this title, the "Georgia Administrative Procedure Act."

**§ 50-27-21. Preservation of lottery proceeds by retailers; accounting procedures; preference accorded proceeds of insolvent retailers**

(a) All proceeds from the sale of the lottery tickets or shares shall constitute a trust fund until paid to the corporation either directly or through the corporation's authorized collection representative. A lottery retailer and officers of a lottery retailer's business shall have a

fiduciary duty to preserve and account for lottery proceeds and lottery retailers shall be personally liable for all proceeds. Proceeds shall include unsold instant tickets received by a lottery retailer and cash proceeds of the sale of any lottery products, net of allowable sales commissions and credit for lottery prizes sold to or paid to winners by lottery retailers. Sales proceeds and unused instant tickets shall be delivered to the corporation or its authorized collection representative upon demand.

(b) The corporation shall require retailers to place all lottery proceeds due the corporation in accounts in institutions insured by the Federal Deposit Insurance Corporation not later than the close of the next banking day after the date of their collection by the retailer until the date they are paid over to the corporation. At the time of such deposit, lottery proceeds shall be deemed to be the property of the corporation. The corporation may require a retailer to establish a single separate electronic funds transfer account where available for the purpose of receiving moneys from ticket or share sales, making payments to the corporation, and receiving payments for the corporation. Unless otherwise authorized in writing by the corporation, each lottery retailer shall establish a separate bank account for lottery proceeds which shall be kept separate and apart from all other funds and assets and shall not be commingled with any other funds or assets.

(c) Whenever any person who receives proceeds from the sale of lottery tickets or shares in the capacity of a lottery retailer becomes insolvent, the proceeds due the corporation from such person shall have preference over all debts or demands.

(d) Whenever any person who receives proceeds from the sale of lottery tickets or shares in the capacity of a lottery retailer dies insolvent, the proceeds due the corporation from such person's estate shall have preference over all debts or demands except the provision of year's support for such person's family.

#### **§ 50-27-22. Computation of rental payments of retailers**

If a lottery retailer's rental payments for the business premises are contractually computed, in whole or in part, on the basis of a percentage of retail sales and such computation of retail sales is not explicitly defined to include sales of tickets or shares in a state operated or state managed lottery, only the compensation received by the lottery retailer from the corporation may be considered the amount of the lottery retail sale for purposes of computing the rental payment.

#### **§ 50-27-23. Restrictions on sale of tickets or shares; price; gifts and promotions**

(a) No person shall sell a ticket or share at a price other than established by the corporation unless authorized in writing by the chief executive officer. No person other than a duly certified lottery retailer shall sell lottery tickets, but this subsection shall not be construed to prevent a person who may lawfully purchase tickets or shares from making a gift of lottery tickets or shares to another. Nothing in this chapter shall be construed to prohibit the corporation from designating certain of its agents and employees to sell or give lottery tickets or shares directly to the public.

(b) Lottery tickets or shares may be given by merchants as a means of promoting goods or services to customers or prospective customers subject to prior approval by the corporation.

(c) No lottery retailer shall sell a lottery ticket or share except from the locations listed in his contract and as evidenced by his certificate of authorization unless the corporation authorizes in writing any temporary location not listed in his contract.

(d) No lottery tickets or shares shall be sold to persons under 18 years of age, but this Code section does not prohibit the purchase of a lottery ticket or share by a person 18 years of age or older for the purpose of making a gift to any person of any age. In such case, the corporation shall direct payment of proceeds of any lottery prize to an adult member of the person's family or a legal representative of the person on behalf of such person. The person named as custodian shall have the same powers and duties as prescribed for a custodian pursuant to Article 5 of Chapter 5 of Title 44.

**§ 50-27-24. Prize proceeds subject to state income tax; attachments, garnishments, or executions; validation of winning tickets; prohibited purchases; money-dispensing machines; unclaimed prize money**

(a) Proceeds of any lottery prize shall be subject to the Georgia state income tax.

(b) Except as otherwise provided in Article 2 of this chapter, attachments, garnishments, or executions authorized and issued pursuant to law shall be withheld if timely served upon the corporation. This subsection shall not apply to a retailer.

(c) The corporation shall adopt regulations, policies, and procedures to establish a system of verifying the validity of tickets or shares claimed to win prizes and to effect payment of such prizes, except that:

(1) Except as provided in Code Section 50-27-24.1, no prize, any portion of a prize, or any right of any person to a prize awarded shall be assignable. Any prize or any portion of a prize remaining unpaid at the death of a prize winner shall be paid to the estate of the deceased prize winner or to the trustee of a trust established by the deceased prize winner as settlor if a copy of the trust document or instrument has been filed with the corporation along with a notarized letter of direction from the settlor and no written notice of revocation has been received by the corporation prior to the settlor's death. Following a settlor's death and prior to any payment to such a successor trustee, the corporation shall obtain from the trustee a written agreement to indemnify and hold the corporation harmless with respect to any claims that may be asserted against the corporation arising from payment to or through the trust. Notwithstanding any other provisions of this Code section, any person, pursuant to an appropriate judicial order, shall be paid the prize to which a winner is entitled;

(2) No prize shall be paid arising from claimed tickets that are stolen, counterfeit, altered, fraudulent, unissued, produced or issued in error, unreadable, not received, or not recorded by the corporation within applicable deadlines; lacking in captions that conform and agree with the play symbols as appropriate to the particular lottery game involved; or not in compliance with such additional specific regulations and public or confidential validation and security tests of the corporation appropriate to the particular lottery game involved;

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

(4) A holder of a winning cash ticket or share from a lottery game shall claim a cash prize within 180 days, or for a multistate or multisoovereign lottery game within 180 days, after the drawing in which the cash prize was won. In any Georgia lottery game in which the player may determine instantly if he has won or lost, he shall claim a cash prize within 90 days, or for a multistate lottery game within 180 days, after the end of the lottery game. If a valid claim is not made for a cash prize within the applicable period, the cash prize shall constitute an unclaimed prize for purposes of this Code section.

(d) No prize shall be paid upon a ticket or share purchased or sold in violation of this chapter. Any such prize shall constitute an unclaimed prize for purposes of this Code section.

(e) The corporation is discharged of all liability upon payment of a prize.

(f) No ticket or share shall be purchased by and no prize shall be paid to any member of the board of directors; any officer or employee of the corporation; or to any spouse, child, brother, sister, or parent residing as a member of the same household in the principal place of residence of any such person. No ticket or share shall be purchased by and no prize shall be paid to any officer, employee, agent, or subcontractor of any vendor or to any spouse, child, brother, sister, or parent residing as a member of the same household in the principal place of residence of any such person if such officer, employee, agent, or subcontractor has access to confidential information which may compromise the integrity of the lottery.

(g) No lottery game utilizing an electronic or mechanical machine may use a machine which dispenses coins or currency.

(h) Unclaimed prize money shall not constitute net lottery proceeds. A portion of unclaimed prize money, not to exceed \$200,000.00 annually, shall be directed to the Department of Behavioral Health and Developmental Disabilities for the treatment of compulsive gambling disorder and educational programs related to such disorder. In addition, unclaimed prize money may be added to the pool from which future prizes are to be awarded or used for special prize promotions.

**§ 50-27-24.1. Payment of prize to person other than winner; assignment of prize rights; hearing; findings justifying approval of voluntary assignment; other requirements**

(a) Under an appropriate judicial order, any prize or any portion of a prize or any right of any person to a prize awarded payable by the corporation in installment payments may be paid to any person other than the winner.

(b) The right of a person to a prize payable by the corporation in installment payments may be voluntarily assigned as a whole or in part if the assignment is made to a person designated in accordance with an order of the superior court in the county where the corporation is located. In the case of a voluntary assignment for consideration made under a judicial order, the assignee shall withhold from the purchase price to be paid to the assignor federal and state income taxes in a manner and amount consistent with the

procedures of the corporation and pay such withheld taxes to the proper taxing authority in a timely manner and maintain and file all required records, forms, and reports.

(c) On the filing by the assignor or the assignee in the superior court of a petition seeking approval of a voluntary assignment, the filing party shall schedule a hearing on such petition and serve notice of the hearing on all interested parties. The court shall conduct an evidentiary hearing. If the court finds that:

(1) The assignment is in writing, is executed by the assignor, and is by its terms subject to the laws of the state;

(2) The assignor has provided a sworn affidavit attesting that he or she is of sound mind, is in full command of his or her faculties, and is not acting under duress;

(3) The assignor has been advised about the assignment by an independent attorney who is not related to and not compensated by the assignee or an affiliate of the assignee;

(4) The assignor understands that he or she will not receive the prize payments or parts of payments during the years assigned;

(5) The assignor understands and agrees that the corporation, directors, and officials and employees of the corporation are not liable or responsible for making any of the assigned payments;

(6) The assignee has provided the assignor with a one-page disclosure statement in boldface type not less than 14 points in size, setting forth:

(A) The payments being assigned by the amount and payment date;

(B) The purchase price;

(C) The rate of discount to present value assuming daily compounding and funding on the contract date;

(D) An itemized listing of all brokers' commissions, service charges, application fees, processing fees, closing costs, filing fees, administrative fees, notary fees, and other commissions, fees, costs, expenses, and charges, and a good faith estimate of all legal fees and court costs payable by the assignor or deductible from the gross amount otherwise payable to the assignor;

(E) The net amount payable to the assignor after deduction of all commissions, fees, costs, expenses, and charges described in subparagraph (D) of this paragraph; and

(F) The amount of any penalty and the amount of any liquidated damages, inclusive of penalties, payable by the assignor in the event of any breach of the transfer agreement by the assignor;

(7) The interest rate or discount rate, as applicable, associated with the assignment does not indicate overreaching or exploitation, does not exceed current usury rates, and does not

violate any laws of usury of this state; and

(8) The contract of assignment expressly states that the assignor has three business days after signing the contract to cancel the assignment,

the court shall issue an order approving a voluntary assignment and directing the corporation to make prize payments as a whole or in part to the assignee.

(d) Written notice of the petition and proposed assignment and any court hearing concerning the petition and proposed assignment shall be given to the corporation's counsel at least ten days before a court hearing. The corporation need not appear in or be named as party to an action that seeks judicial approval of an assignment but may intervene as of right in the action. A certified copy of a court order approving a voluntary assignment shall be given to the corporation not later than ten days before the date on which the payment is to be made. Written notice of the petition and proposed assignment and any court hearing concerning the petition and proposed assignment shall be served by certified mail to the last known address of any interested party. The interested party need not appear in or be named as party to an action that seeks judicial approval of an assignment but may intervene as of right in the action.

(e) The corporation, not later than ten days after receiving a certified copy of a court order approving a voluntary assignment, shall send the assignor and the assignee written confirmation of the court approved assignment and the intent of the corporation to rely on the assignment in making payments to the assignee named in the order free from any attachments, garnishments, or executions.

(f) A voluntary assignment may not include or cover payments or parts of payments to the assignor to the extent that such payments are subject to attachments, garnishments, or executions authorized and issued pursuant to law as provided in subsection (b) of Code Section 50-27-24. Each court order issued under this subsection shall provide that any obligations of the assignor created by subsection (b) of Code Section 50-27-24 shall be satisfied out of the proceeds to be received by the assignor.

(g) A voluntary assignment may not include portions of payments that are subject to offset on account of a defaulted or delinquent child support obligation, nonwage garnishment, or criminal restitution obligation or on account of a debt owed to a state agency. Each court order issued under subsection (c) of this Code section shall provide that any delinquent child support or criminal restitution obligations of the assignor and any debts owed to a state agency by the assignor, as of the date of the court order, shall be set off by the corporation first against remaining payments or portions thereof due the prize winner and then against payments due the assignee.

(h) The corporation, the directors, officials, and employees of the corporation are not liable under this Code section after payment of an assigned prize is made. The assignor and assignee shall hold harmless and indemnify the corporation, the directors, and the state, and its employees and agents, from all claims, suits, actions, complaints, or liabilities related to the assignment.

(i) The corporation may establish a reasonable fee to defray administrative expenses

associated with assignments made under this Code section, including a processing fee imposed by a private annuity provider. The amount of the fee shall reflect the direct and indirect costs of processing assignments.

(j) The assignee shall notify the corporation of its business location and mailing address for payment purposes and of any change in location or address during the entire course of the assignment.

(k) A court order or a combination of court orders under this Code section may not require the corporation to divide a single prize payment among more than three different persons. This Code section does not prohibit the substitution of assignees as long as there are not more than three assignees at any one time for any one prize payment. Any subsequent assignee is bound as the original assignee by the provisions of this Code section and the terms and conditions of the contract of assignment.

(l) If the federal Internal Revenue Service or a court of competent jurisdiction issues a determination letter, revenue ruling, or other public document declaring that the voluntary assignment of prizes will affect the federal income tax treatment of lottery prize winners who do not assign their prizes, then within 15 days after the corporation receives the letter, ruling, or other document, the director of the corporation shall file a copy of it with the Attorney General and a court may not issue an order authorizing a voluntary assignment under this Code section.

(m) The provisions of this Code section shall prevail over any inconsistent provision in Code Section 11-9-109.

(n) Any agreement or option to sell, assign, pledge, hypothecate, transfer, or encumber a lottery prize, or any portion thereof, prior to May 12, 2008, shall be void in its entirety.

**§ 50-27-25. Confidentiality of information; investigations; supervision and inspections; reports of suspected violations; assistance in investigation of violations**

(a) Except as authorized in this chapter, the corporation is subject to the provisions of Article 4 of Chapter 18 of this title and Chapter 14 of this title. The corporation is specifically authorized to determine which information relating to the operation of the lottery is confidential. Such information includes trade secrets; security measures, systems, or procedures; security reports; information concerning bids or other contractual data, the disclosure of which would impair the efforts of the corporation to contract for goods or services on favorable terms; employee personnel information unrelated to compensation, duties, qualifications, or responsibilities; and information obtained pursuant to investigations which is otherwise confidential. Information deemed confidential pursuant to this Code section is exempt from the provisions of Article 4 of Chapter 18 of this title. Meetings or portions of meetings devoted to discussing information deemed confidential pursuant to this Code section are exempt from Chapter 14 of this title.

(b) The corporation shall perform full criminal background investigations prior to the execution of any vendor contract.



(c) The corporation or its authorized agent shall:

(1) Conduct criminal background investigations and credit investigations on all potential retailers;

(2) Supervise ticket or share validation and lottery drawings;

(3) Inspect at times determined solely by the corporation the facilities of any vendor or lottery retailer in order to determine the integrity of the vendor's product or the operations of the retailer in order to determine whether the vendor or the retailer is in compliance with its contract;

(4) Report any suspected violations of this chapter to the appropriate district attorney or the Attorney General and to any law enforcement agencies having jurisdiction over the violation; and

(5) Upon request, provide assistance to any district attorney, the Attorney General, or a law enforcement agency investigating a violation of this chapter.

(d) The corporation shall keep all information regarding the winner of awards of \$250,000 or greater confidential upon the prize winner making a written request that his or her information be kept confidential.

**§ 50-27-26. Sales to minors; penalty; affirmative defense**

Any person who knowingly sells a lottery ticket or share to a person under 18 years of age or permits a person under 18 years of age to play any lottery games shall be guilty of a misdemeanor and shall be fined not less than \$100.00 nor more than \$500.00 for the first offense and for each subsequent offense not less than \$200.00 nor more than \$1,000.00. It shall be an affirmative defense to a charge of a violation under this Code section that the retailer reasonably and in good faith relied upon representation of proof of age in making the sale.

**§ 50-27-27. Penalty for falsely making, altering, forging, uttering, passing, or counterfeiting ticket; penalty for attempting to influence winning of prize**

(a) Any person who, with intent to defraud, falsely makes, alters, forges, utters, passes, or counterfeits a state lottery ticket shall be punished by a fine not to exceed \$50,000.00 or imprisonment for not longer than five years or both.

(b) Any person who influences or attempts to influence the winning of a prize through the use of coercion, fraud, deception, or tampering with lottery equipment or materials shall be punished by a fine not to exceed \$50,000.00 or by imprisonment for not longer than five years or both.

**§ 50-27-28. Penalty for making false statements or false entries in books or records**

No person shall knowingly or intentionally make a material false statement in any application for a license or proposal to conduct lottery activities or make a material false entry in any book or record which is compiled or maintained or submitted to the board

pursuant to the provisions of this chapter. Any person who violates the provisions of this Code section shall be punished by a fine not to exceed \$25,000.00 or the dollar amount of the false entry or statement, whichever is greater, or by imprisonment for not longer than five years or both.

**§ 50-27-29. Agreements with agencies of other jurisdictions; restriction on release of records, documents, and information**

(a) The corporation may enter into intelligence sharing, reciprocal use, or restricted use agreements with the federal government, law enforcement agencies, lottery regulation agencies, and gaming enforcement agencies of other jurisdictions which provide for and regulate the use of information provided and received pursuant to the agreement.

(b) Records, documents, and information in the possession of the corporation received pursuant to an intelligence-sharing, reciprocal use, or restricted use agreement entered into by the corporation with a federal department or agency, any law enforcement agency, or the lottery regulation or gaming enforcement agency of any jurisdiction shall be considered investigative records of a law enforcement agency and are not subject to Article 4 of Chapter 18 of this title and shall not be released under any condition without the permission of the person or agency providing the record or information.

**§ 50-27-30. Bidding requirements and procedures for contracts**

(a) The corporation shall enter into its contracts for major procurements after competitive bidding. The requirement for competitive bidding does not apply in the case of a single vendor having exclusive rights to offer a particular service or product. Procedures adopted by the board shall be designed to allow the selection of proposals that provide the greatest long-term benefit to the state, the greatest integrity for the corporation, and the best service and products for the public.

(b) In any bidding process, the corporation may administer its own bidding and procurement or may utilize the services of the Department of Administrative Services or other state agency or subdivision thereof.

**§ 50-27-31. Appeals from actions of board**

(a) Any retailer, vendor, or applicant for a retailer or vendor contract aggrieved by an action of the board may appeal that decision to the Superior Court of Fulton County.

(b) The Superior Court of Fulton County shall hear appeals from decisions of the board and based upon the record of the proceedings before the board may reverse the decision of the board only if the appellant proves the decision to be:

- (1) Clearly erroneous;
- (2) Arbitrary and capricious;
- (3) Procured by fraud;

(4) A result of substantial misconduct by the board; or

(5) Contrary to the United States Constitution or the Constitution of Georgia or the provisions of this chapter.

(c) The superior court may remand an appeal to the board to conduct further hearings.

(d) Any person who appeals the award of a major procurement contract for the supply of a lottery ticket system, share system, or an on-line or other mechanical or electronic system shall be liable for all costs of appeal and defense in the event the appeal is denied or the contract award upheld. Cost of appeal and defense shall specifically include but not be limited to court costs, bond, legal fees, and loss of income to the corporation resulting from institution of the appeal if, upon the motion of the corporation, the court finds the appeal to have been frivolous.

**§ 50-27-32. Corporation authorized to borrow money; validation of debt; restriction on use of money in state general fund; purchase or release of goods and services**

(a) The corporation may borrow, or accept and expend, in accordance with the provisions of this chapter, such moneys as may be received from any source, including income from the corporation's operations, for effectuating its corporate purposes, including the payment of the initial expenses of initiation, administration, and operation of the corporation and the lottery.

(b) Any debt of the corporation may be validated pursuant to the provisions of subsection (e) of Code Section 50-17-25, and the provisions of such subsection relating to the State Financing and Investment Commission shall be deemed to apply to the corporation.

(c) The corporation shall be self-sustaining and self-funded. Moneys in the state general fund shall not be used or obligated to pay the expenses of the corporation or prizes of the lottery, and no claim for the payment of an expense of the lottery or prizes of the lottery may be made against any moneys other than moneys credited to the corporation operating account.

(d) The corporation may purchase, lease, or lease-purchase such goods or services as are necessary for effectuating the purposes of this chapter. The corporation may make procurements which integrate functions such as lottery game design, lottery ticket distribution to retailers, supply of goods and services, and advertising. In all procurement decisions, the corporation shall take into account the particularly sensitive nature of the state lottery and shall act to promote and ensure security, honesty, fairness, and integrity in the operation and administration of the lottery and the objectives of raising net proceeds for the benefit of educational programs and purposes.

**§ 50-27-33. Reports by corporation; audits; budget; fiscal year**

To ensure the financial integrity of the lottery, the corporation through its board of directors shall:

(1) Submit quarterly and annual reports to the Governor, state auditor, the state

accounting officer, and the oversight committee created by Code Section 50-27-34, disclosing the total lottery revenues, prize disbursements, operating expenses, and administrative expenses of the corporation during the reporting period. The annual report shall additionally describe the organizational structure of the corporation and summarize the functions performed by each organizational division within the corporation;

(2) Adopt a system of internal audits;

(3) Maintain weekly or more frequent records of lottery transactions, including the distribution of tickets or shares to retailers, revenues received, claims for prizes, prizes paid, prizes forfeited, and other financial transactions of the corporation;

(4) Contract with a certified public accountant or firm for an annual financial audit of the corporation. The certified public accountant or firm shall have no financial interest in any vendor with whom the corporation is under contract. The certified public accountant or firm shall present an audit report not later than four months after the end of the fiscal year. The certified public accountant or firm shall evaluate the internal auditing controls in effect during the audit period. The cost of this annual financial audit shall be an operating expense of the corporation. The state auditor may at any time conduct an audit of any phase of the operations of the Georgia Lottery Corporation at the expense of the state and shall receive a copy of the annual independent financial audit. A copy of any audit performed by the certified public accountant or firm or the state auditor shall be transmitted to the Governor, the Lieutenant Governor, and the Speaker of the House of Representatives, the state auditor, the state accounting officer, and the oversight committee chairperson;

(5) Submit to the Office of Planning and Budget, the state auditor, and the state accounting officer by June 30 of each year a copy of the annual operating budget for the corporation for the next fiscal year. This annual operating budget shall be approved by the board and be on such forms as prescribed by the Office of Planning and Budget;

(6) For informational purposes only, submit to the Office of Planning and Budget on September 1 of each year a proposed operating budget for the corporation for the succeeding fiscal year. This budget proposal shall also be accompanied by an estimate of the net proceeds to be deposited into the Lottery for Education Account during the succeeding fiscal year. This budget shall be on such forms as prescribed by the Office of Planning and Budget; and

(7) Adopt the same fiscal year as that used by state government.

#### **§ 50-27-34. Legislative oversight committee**

(a) There is created as a joint committee of the General Assembly, the Georgia Lottery Corporation Legislative Oversight Committee, to be composed of the members of the House Committee on Regulated Industries and the Senate Economic Development Committee. The chairpersons of such committees shall serve as cochairpersons of the oversight committee. The oversight committee shall periodically inquire into and review the operations of the Georgia Lottery Corporation, as well as periodically review and evaluate the success with which the authority is accomplishing its statutory duties and functions as provided in this chapter. The oversight committee may conduct any independent audit or investigation of

the authority it deems necessary.

(b) The Georgia Lottery Corporation shall provide the oversight committee not later than December 1 of each year with a complete report of the level of participation of minority businesses in all retail and major procurement contracts awarded by the corporation.

### **§ 50-27-50. Purpose**

The purpose of this article is to establish a policy and to provide a system whereby all claimant agencies of this state in conjunction with the corporation shall cooperate in identifying debtors who owe money to the state through its various claimant agencies or to persons on whose behalf the state and its claimant agencies act and who qualify for prizes under Article 1 of this chapter from the corporation. It is also the purpose of this article to establish procedures for setting off against any such prize the sum of any debt owed to the state or to persons on whose behalf the state and its claimant agencies act. It is the intent of the General Assembly that this article be liberally construed to effectuate these purposes.

### **§ 50-27-51. Definitions**

As used in this article, the term:

(1) "Claimant agency" means any state agency, department, board, bureau, commission, or authority to which an individual owes a debt or which acts on behalf of an individual to collect a debt.

(2) "Debt" means any liquidated sum due and owing any claimant agency, which sum has accrued through contract, subrogation, tort, or operation of law regardless of whether there is an outstanding judgment for the sum, or any sum which is due and owing any person and is enforceable by the state or any of its agencies or departments.

(3) "Debtor" means any individual owing money to or having a delinquent account with any claimant agency, which obligation has not been adjudicated as satisfied by court order, set aside by court order, or discharged in bankruptcy.

(4) "Prize" means the proceeds of any lottery prize awarded under Article 1 of this chapter.

### **§ 50-27-52. Collection remedy in addition to other remedies**

The collection remedy authorized by this article is in addition to and not in substitution for any other remedy available by law.

### **§ 50-27-53. Debts owed to state agencies lien against lottery winnings; prizes paid out by retailers or noncorporate entities; time period involved; rules and regulations; immunity; costs**

(a) Any claimant agency may submit to the corporation a list of the names of all persons owing debts in excess of \$100.00 to such claimant agency or to persons on whose behalf the claimant agency is acting. The full amount of the debt shall be collectable from any lottery winnings without regard to limitations on the amounts that may be collectable in increments through garnishment or other proceedings. Such list shall constitute a valid lien upon and claim of lien against the lottery winnings of any debtor named in such list. The list shall contain the names of the debtors, their social security numbers if available, and any other information which would assist the corporation in identifying the debtors named in the list.

(b) The corporation is authorized and directed to withhold any winnings subject to the lien created by this Code section and send notice to the winner by certified mail or statutory overnight delivery, return receipt requested, of such action and the reason the winnings were withheld. However, if the winner appears and claims winnings in person, the corporation shall notify the winner at that time by hand delivery of such action. If the debtor does not protest the withholding of such funds in writing within 30 days of such notice, the corporation shall pay the funds over to the claimant agency. If the debtor protests the withholding of such funds within 30 days of such notice, the corporation shall file an action in interpleader in the superior court of the county in which the debtor resides, pay the disputed sum into the registry of the court, and give notice to the claimant agency and debtor of the initiation of such action.

(c) The liens created by this Code section shall rank among themselves as follows:

- (1) Taxes due the state;
- (2) Delinquent child support; and
- (3) All other judgments and liens in order of the date entered or perfected.

(d) The corporation shall not be required to deduct claimed debts from prizes paid out by retailers or entities other than the corporation.

(e) Any list of debt provided pursuant to this article shall be provided periodically as the corporation shall provide by rules and regulations and the corporation shall not be obligated to retain such lists or deduct debts appearing on such lists beyond the period determined by such rules and regulations.

(f) The corporation is authorized to prescribe forms and promulgate rules and regulations which it deems necessary to carry out the provisions of this article.

(g) The corporation and any claimant agency shall incur no civil or criminal liability for good faith adherence to the provisions of this Code section.

(h) The claimant agency shall pay the corporation for all costs incurred by the corporation in setting off debts in the manner provided in this article.

**§ 50-27-54. Information provided to claimant agency; confidentiality**

(a) Notwithstanding Code Section 50-27-29, which prohibits disclosure by the corporation of the contents of prize winner records or information, and notwithstanding any other confidentiality statute, the corporation may provide to a claimant agency all information necessary to accomplish and effectuate the intent of this article.

(b) The information obtained by a claimant agency from the corporation in accordance with this article shall retain its confidentiality and shall only be used by a claimant agency in the pursuit of its debt collection duties and practices. Any employee or prior employee of any claimant agency who unlawfully discloses any such information for any other purpose, except as otherwise specifically authorized by law, shall be subject to the same penalties specified by law for unauthorized disclosure of confidential information by an agent or employee of the corporation.

**§ 50-27-55. Article applicable to prizes of \$5,000.00 or more**

The provisions of this article shall only apply to prizes of \$5,000.00 or more and shall not apply to any retailers authorized by the board to pay prizes of up to \$5,000.00 after deducting the price of the ticket or share; excepting that a claim for delinquent child support filed by the Child Support Enforcement Agency of the Department of Human Services shall apply to all prizes of \$2,500.00 or more.

**§ 50-27-70. Legislative findings; definitions**

(a) The General Assembly finds that the ability to operate a bona fide coin operated amusement machine business in this state constitutes a privilege and not a right. Further, in order to prevent the unregulated operation of the bona fide coin operated amusement machine business, the General Assembly is enacting the procedural enhancements of this article which will aid in the enforcement of the tax obligations that arise from the operation of bona fide coin operated amusement machine businesses as well as prevent unauthorized cash payouts. The General Assembly finds that the bona fide coin operated amusement machine business can be conducted in a manner to safeguard the fiscal soundness of the state, enhance public welfare, and support the need to educate Georgia's children through the HOPE scholarship program and pre-kindergarten funding authorized by Article I, Section II, Paragraph VIII of the Constitution.

(b) As used in this article, the term:

(1) "Applicant" or "licensee" means an owner, including an owner's officers, directors, shareholders, individuals, members of any association or other entity not specified, and, when applicable in context, the business entity itself.

(2) (A) "Bona fide coin operated amusement machine" means every machine of any kind or character used by the public to provide amusement or entertainment whose operation requires the payment of or the insertion of a coin, bill, other money, token, ticket, card, or similar object and the result of whose operation depends in whole or in part upon the skill of the player, whether or not it affords an award to a successful player pursuant to subsections (b) through (g) of Code Section 16-12-35, and which can be legally shipped interstate according to federal law. Examples of bona fide coin operated amusement machines include, but are expressly not limited to, the following:

- (i) Pinball machines;
- (ii) Console machines;
- (iii) Video games;
- (iv) Crane machines;
- (v) Claw machines;
- (vi) Pusher machines;
- (vii) Bowling machines;
- (viii) Novelty arcade games;
- (ix) Foosball or table soccer machines;
- (x) Miniature racetrack, football, or golf machines;
- (xi) Target or shooting gallery machines;
- (xii) Basketball machines;
- (xiii) Shuffleboard games;
- (xiv) Kiddie ride games;
- (xv) Skee-ball machines;
- (xvi) Air hockey machines;
- (xvii) Roll down machines;
- (xviii) Trivia machines;
- (xix) Laser games;
- (xx) Simulator games;
- (xxi) Virtual reality machines;
- (xxii) Maze games;
- (xxiii) Racing games;
- (xxiv) Coin operated pool tables or coin operated billiard tables as defined in paragraph (3) of Code Section 43-8-1; and



(xxv) Any other similar amusement machine which can be legally operated in Georgia.

The term also means a machine of any kind or character used by the public to provide music whose operation requires the payment of or the insertion of a coin, bill, other money, token, ticket, card, or similar object such as jukeboxes or other similar types of music machines.

(B) The term "bona fide coin operated amusement machine" does not include the following:

- (i) Coin operated washing machines or dryers;
- (ii) Vending machines which for payment of money dispense products or services;
- (iii) Gas and electric meters;
- (iv) Pay telephones;
- (v) Pay toilets;
- (vi) Cigarette vending machines;
- (vii) Coin operated scales;
- (viii) Coin operated gumball machines;
- (ix) Coin operated parking meters;
- (x) Coin operated television sets which provide cable or network programming;
- (xi) Coin operated massage beds; and
- (xii) Machines which are not legally permitted to be operated in Georgia.

(3) "Class A machine" means a bona fide coin operated amusement machine that is not a Class B machine, does not allow a successful player to carry over points won on one play to a subsequent play or plays, and:

- (A) Provides no reward to a successful player;
- (B) Rewards a successful player only with free replays or additional time to play;

(C) Rewards a successful player with noncash merchandise, prizes, toys, gift certificates, or novelties in compliance with the provisions of subsection (c) or paragraph (1) of subsection (d) of Code Section 16-12-35, and does not reward a successful player with any item prohibited as a reward in subsection (i) of Code Section 16-12-35 or any reward redeemable as an item prohibited as a reward in subsection (i) of Code Section 16-12-35;

(D) Rewards a successful player with points, tokens, tickets, or other evidence of winnings that may be exchanged only for items listed in subparagraph (C) of this paragraph; or

(E) Rewards a successful player with any combination of items listed in subparagraphs (B), (C), and (D) of this paragraph.

(4) "Class B machine" means a bona fide coin operated amusement machine that allows a successful player to accrue points on the machine and carry over points won on one play to a subsequent play or plays in accordance with paragraph (2) of subsection (d) of Code Section 16-12-35 and:

(A) Rewards a successful player in compliance with the provisions of paragraphs (1) and (2) of subsection (d) of Code Section 16-12-35; and

(B) Does not reward a successful player with any item prohibited as a reward in subsection (i) of Code Section 16-12-35 or any reward redeemable as an item prohibited as a reward in subsection (i) of Code Section 16-12-35.

(5) "Distributor" means a person, individual, partnership, corporation, limited liability company, or any other business entity that buys, sells, or distributes Class B machines to or from operators.

(6) "Location license" means the initial and annually renewed license which every location owner or location operator must purchase and display in the location where one or more bona fide coin operated amusement machines are available for commercial use by the public for play in order to operate legally any such machine in this state.

(7) "Location license fee" means the fee paid to obtain the location license.

(8) "Location owner or location operator" means an owner or operator of a business where one or more bona fide coin operated amusement machines are available for commercial use and play by the public.

(9) "Manufacturer" means a person, individual, partnership, corporation, limited liability company, or any other business entity that supplies and sells major components or parts, including software, hardware, or both, to Class B machine distributors or operators.

(10) "Master license" means the certificate which every owner of a bona fide coin operated amusement machine must purchase and display in the owner's or operator's place of business where the machine is located for commercial use by the public for play in order to legally operate the machine in the state.

(10.1) "Master licensee" means any person that has lawfully applied for and received a master license.

(11) "Net receipts" means the entire amount of moneys received from the public for play of an amusement machine, minus the amount of expenses for noncash redemption of winnings from the amusement machine, and minus the amount of moneys refunded to the

public for bona fide malfunctions of the amusement machine.

(12) "Operator" means any person, individual, firm, company, association, corporation, or other business entity that exhibits, displays, or permits to be exhibited or displayed, in a place of business other than his own, any bona fide coin operated amusement machine in this state.

(13) "Owner" means any person, individual, firm, company, association, corporation, or other business entity owning any bona fide coin operated amusement machine in this state.

(14) "Permit fee" means the annual per machine charge which every owner of a bona fide coin operated amusement machine in commercial use must purchase and display in either the owner's or operator's place of business in order to legally operate the machine in the state.

(15) "Person" means an individual, any corporate entity or form authorized by law including any of its subsidiaries or affiliates, or any officer, director, board member, or employee of any corporate entity or form authorized by law.

(16) "Single play" or "one play" means the completion of a sequence of a game, or replay of a game, where the player receives a score and from the score the player can secure free replays, merchandise, points, tokens, vouchers, tickets, cards, or other evidence of winnings as set forth in subsection (c) or (d) of Code Section 16-12-35. A player may, but is not required to, exchange a score for rewards permitted by subparagraphs (d)(1)(A) through (d)(1)(D) of Code Section 16-12-35 after each play.

(17) "Slot machine or any simulation or variation thereof" means any contrivance which, for a consideration, affords the player an opportunity to obtain money or other thing of value, the award of which is determined solely by chance, whether or not a prize is automatically paid by the contrivance.

(18) "Sticker" means the decal issued for every bona fide coin operated amusement machine to show proof of payment of the permit fee.

(19) "Successful player" means an individual who wins on one or more plays of a bona fide coin operated amusement machine.

(20) "Temporary location permit" means the permit which every location owner or location operator must purchase and display in the location where one or more bona fide coin operated amusement machines are available for commercial use by the public for play in order to operate legally the machine or machines in this state for seven days or less. Such temporary location permits shall be subject to the same regulations and conditions as location licenses.

**§ 50-27-71. License fees; issuance of license; display of license; control number; duplicate certificates; application for license or renewal; penalty for noncompliance**

(a) Every manufacturer, distributor, and owner, except an owner holding a bona fide coin

operated amusement machine solely for personal use or resale, who offers a bona fide coin operated amusement machine for sale to a distributor or to an owner and who offers others the opportunity to play for a charge, whether directly or indirectly, any bona fide coin operated amusement machine shall pay annual master license fees to the corporation as follows:

(1) For Class A machines:

(A) For five or fewer machines, the owner shall pay a master license fee of \$500.00.

In the event such owner acquires a sixth or greater number of machines during a calendar year which requires a certificate for lawful operation under this article so that the total number of machines owned does not exceed 60 machines or more, such owner shall pay an additional master license fee of \$1,500.00;

(B) For six or more machines but not more than 60 machines, the owner shall pay a master license fee of \$2,000.00. In the event such owner acquires a sixty-first or greater number of machines during a calendar year which requires a certificate for lawful operation under this article, such owner shall pay an additional master license fee of \$1,500.00; or

(C) For 61 or more machines, the owner shall pay a master license fee of \$3,500.00;

(2) For any number of Class B machines, the owner shall pay a master license fee of \$5,000.00;

(3) For any distributor, the distributor shall pay a distributor license fee of \$5,000.00; and

(4) For any manufacturer, the manufacturer shall pay a manufacturer license fee of \$5,000.00.

The cost of the license shall be paid to the corporation by company check, cash, cashier's check, money order, or any other method approved by the chief executive officer. Upon such payment, the corporation shall issue a master license certificate to the owner. The license fees levied by this Code section shall be collected by the corporation on an annual basis, and the board may establish procedures for license collection and set due dates for these license payments. No refund or credit of the license charge levied by this Code section may be allowed to any owner who ceases the manufacture, distribution, or operation of bona fide coin operated amusement machines prior to the end of any license or permit period.

(a.1) Every location owner or location operator shall pay an annual location license fee for each bona fide coin operated amusement machine offered to the public for play. The annual location license fee shall be \$25.00 for each Class A machine and \$125.00 for each Class B machine. The annual location license fee levied by this Code section shall be collected by the corporation, and the board may establish procedures for location license fee collection and set due dates for payment of such fees. The location license fee shall be paid to the corporation by company check, cash, cashier's check, money order, or any other method approved by the chief executive officer. Upon payment, the corporation shall issue a location license certificate that shall state the number of bona fide coin operated

amusement machines permitted for each class without further description or identification of specific machines. No refund or credit of the location license fee shall be allowed to any location owner or location operator who ceases to offer bona fide coin operated amusement machines to the public for commercial use prior the end of any license period.

(a.2) The corporation may refuse to issue or renew a location owner or location operator license or may revoke or suspend a location owner or location operator license issued under this article if:

(1) The licensee or applicant has intentionally violated a provision of this chapter or a regulation promulgated under this chapter;

(2) The licensee or applicant has intentionally failed to provide requested information or answer a question, intentionally made a false statement in or in connection with his or her application or renewal, or omitted any material or requested information;

(3) The licensee or applicant used coercion to accomplish a purpose or to engage in conduct regulated by the corporation;

(4) Failure to revoke or suspend the license would be contrary to the intent and purpose of this article;

(5) The licensee or applicant has engaged in unfair methods of competition and unfair or deceptive acts or practices as provided in Code Section 50-27-87.1; or

(6) Any applicant, or any person, firm, corporation, legal entity, or organization having any interest in any operation for which an application has been submitted, fails to meet any obligations imposed by the tax laws or other laws or regulations of this state.

(b) A copy of an owner's master license and the location owner's or location operator's location license shall be prominently displayed at all locations where the owner and location owner or location operator have bona fide coin operated amusement machines available for commercial use and for play by the public to evidence the payment of the fees levied under this Code section. A manufacturer's license and distributor's license, as well as invoices for the sales of any Class B machines to any person or entity licensed by this chapter, shall be available for inspection at their places of business and upon request from the corporation.

(c) Each manufacturer, distributor, and master license and each location license shall list the name and address of the manufacturer, distributor, owner, location owner, or location operator, as applicable.

(d) The corporation may provide a duplicate license issued pursuant to this Code section if the original license has been lost, stolen, or destroyed. The fee for a duplicate original license is \$100.00. If the original license is lost, stolen, or destroyed, a sworn, written statement must be submitted explaining the circumstances by which the license was lost, stolen, or destroyed and including the number of the lost, stolen, or destroyed license, if applicable, before a duplicate original license can be issued. A license for which a duplicate license has been issued is void.

(e) A license or permit issued under this Code section:

(1) Is effective for a single business entity;

(2) Vests no property or right in the holder of the license or permit except to conduct the licensed or permitted business during the period the license or permit is in effect;

(3) Except as provided in paragraph (5) of this subsection, is nontransferable, nonassignable by and between owners or location owners and location operators, and not subject to execution;

(4) Expires upon the death of an individual holder of a license or permit or upon the dissolution of any other holder of a license or permit; and

(5) As it relates to a master licensee, upon the sale of a master licensee's business in its entirety, the buyer shall pay to the corporation a transfer fee for the master license that accompanies the business in the following amounts:

(A) For the first sale of a master licensee's business, a transfer fee for the master license in the amount of \$10,000.00;

(B) For the second sale of such business, a transfer fee for the master license in the amount of \$25,000.00;

(C) For the third sale of such business, a transfer fee for the master license in the amount of \$50,000.00; and

(D) For the fourth sale of such business and each sale thereafter, a transfer fee for the master license in an amount to be established by the corporation, which transfer fee shall be not less than \$50,000.00.

(f) An application for the renewal of a license or permit must be made to the corporation in accordance with the due dates set forth in the rules promulgated by the board each year.

(g) Acceptance of a license or permit issued under this Code section constitutes consent by the licensee and the location owner or location operator of the business where bona fide coin operated amusement machines are available for commercial use and for play by the public that the corporation's agents may freely enter the business premises where the licensed and permitted machines are located during normal business hours for the purpose of ensuring compliance with this article.

(h) An application for a license or permit to do business under this article shall contain a complete statement regarding the ownership of the business to be licensed or the business where the permitted machines are to be located. This statement of ownership shall specify the same information that is required by the application to secure a sales tax number for the State of Georgia.

(i) An application for a master license shall be accompanied by either the annual or semiannual fee plus the required permit fee due for each machine. Additional per machine

permits can be purchased during the year if needed by the owner. An application for a location license shall be accompanied by the appropriate fee.

(j) An application is subject to public inspection.

(k) A renewal application filed on or after the due dates set forth in the rules promulgated by the board, but before the license expires, shall be accompanied by a nonrefundable late fee of \$1,000.00. A manufacturer, distributor, or master license or location license that has been expired for more than 90 days may not be renewed. In such a case, the manufacturer, distributor, master license, or location license owner shall obtain a new license, as applicable, by complying with the requirements and procedures for obtaining an original license.

(l) A holder of a license who properly completes the application and remits all fees with it by the due date may continue to manufacture, distribute, or operate bona fide coin operated amusement machines after the expiration date if its license or permit renewal has not been issued, unless the holder of the license is notified by the corporation prior to the expiration date of a problem with the renewal.

(m) Holders of manufacturer, distributor, and location licenses and temporary location permits shall be subject to the same provisions of this article with regard to refunds, license renewals, license suspensions, and license revocations as are master licensees.

(n) Failure to obtain a license as required by this Code section shall subject the person to a fine of up to \$25,000.00 and repayment of all fees or receipts due to the corporation pursuant to this article and may subject the person to a loss of all state licenses.

#### **§ 50-27-72. Refund of license**

(a) No refund is allowed for a manufacturer, distributor, or master license except as follows:

(1) The licensee makes a written request to the corporation for a refund prior to the beginning of the calendar year for which it was purchased;

(2) The licensee makes a written request prior to the issuance of the license or registration certificate;

(3) The licensee makes a written request for a refund claiming the license or registration certificate was mistakenly purchased due to reliance on incorrect information from the corporation;

(4) The processing of the license is discontinued; or

(5) The issuance of the license is denied.

(b) Before a refund will be allowed if the renewal of a master license is denied, the corporation shall verify that the applicant has no machines in operation and does not possess any machines except those that are exempt from the fees. If a master license is not

issued, the corporation may retain \$100.00 to cover administrative costs.

(c) No refund will be allowed if the owner has an existing liability for any other fees or taxes due. Any refund will be applied to the existing liability due.

**§ 50-27-73. Refusal to issue or renew license; revocation or suspension; hearing; limitation on issuance of licenses**

(a) The corporation shall not renew a license for a person under this article and shall suspend for any period of time or cancel a license if the corporation finds that the applicant or licensee is indebted to the state for any fees, costs, penalties, or delinquent fees.

(b) The corporation shall not issue or renew a license for a person under this article if the applicant does not designate and maintain an office in this state or if the applicant does not permit inspection by the corporation's agents of his or her place of business or of all records which the applicant or licensee is required to maintain; provided, however, that this subsection shall not apply to manufacturers.

(c) The corporation may refuse to issue or renew a manufacturer, distributor, or master license or may revoke or suspend a manufacturer, distributor, or master license issued under this chapter if:

(1) The licensee or applicant has intentionally violated a provision of this chapter or a regulation promulgated under this chapter;

(2) The licensee or applicant has intentionally failed to provide requested information or answer a question, intentionally made a false statement in or in connection with his or her application or renewal, or omitted any material or requested information;

(3) The licensee or applicant used coercion to accomplish a purpose or to engage in conduct regulated by the corporation;

(4) A master licensee or applicant allows the use of its master license certificate or per machine permit stickers by any other business entity or person that owns or operates bona fide coin operated amusement machines available for commercial use and available to the public for play. If such unauthorized use occurs, the corporation may fine the licensee as follows:

(A) One thousand dollars for each improper use of a per machine permit sticker; and

(B) Twenty-five thousand dollars for each improper use of a master license certificate.

In addition, the corporation is authorized to seize the machines in question and assess the master license and permit fees as required by law and to assess the costs of such seizure to the owner or operator of the machines;

(5) Failure to suspend or revoke the license would be contrary to the intent and purpose of this article;



(6) The licensee or applicant has engaged in unfair methods of competition and unfair or deceptive acts or practices as provided in Code Section 50-27-87.1; or

(7) Any applicant, or any person, firm, corporation, legal entity, or organization having any interest in any operation for which an application has been submitted, fails to meet any obligations imposed by the tax laws or other laws or regulations of this state.

(d) The corporation, on the request of a licensee or applicant for a license, shall conduct a hearing to ascertain whether a licensee or applicant for a license has engaged in conduct which would be grounds for revocation, suspension, or refusal to issue or renew a license.

(e) Effective July 1, 2015, the corporation may issue up to 220 Class B master licenses through a process of competitive auction to be established by the corporation and such competitive auction shall occur at least once every three years effective July 1, 2015; provided, however, that any person or entity holding a Class B master license on the effective date of this subsection shall not be subject to the competitive auction process provided for in this Code section but shall be subject to all other requirements of this article; provided, further, that the corporation shall be permitted to renew Class B master licenses at any time.

**§ 50-27-74. Right to notice and hearing; service of notice; establishment of procedures; prohibition on assigning, transferring or selling by master licensee**

(a) An applicant or licensee is entitled to at least 30 days' written notice and, if requested, a hearing in the following instances:

(1) After an application for an original or renewal license has been refused;

(2) Before the corporation may revoke a license; or

(3) Before the corporation may invoke any other sanctions provided by this article. For purposes of this paragraph, sanctions shall not include:

(A) Issuance of a citation;

(B) Imposition of a late fee, penalty fee, or interest penalty under subsection (k) of Code Section 50-27-71, Code Section 50-27-80, or subsection (a) of Code Section 50-27-82; or

(C) Sealing a machine or imposing charges related thereto under subsection (f) of Code Section 50-27-82.

(b) The written notice provided by this Code section may be served personally by the chief executive officer or an authorized representative of the corporation or sent by United States certified mail or statutory overnight delivery addressed to the applicant, licensee, or registration certificate holder at its last known address. In the event that notice cannot be effected by either of these methods after due diligence, the chief executive officer may prescribe any reasonable method of notice calculated to inform a person of average intelligence and prudence of the corporation's action, including publishing the notice in a

newspaper of general circulation in the area in which the applicant, licensee, or registration certificate holder conducts its business activities. The written notice shall state with particularity the basis upon which the corporation is taking the proposed actions.

(c) Subject to approval by the chief executive officer and corporation, the Bona Fide Coin Operated Amusement Machine Operator Advisory Board shall establish a procedure for hearings required by this article. Such procedure shall empower the chief executive officer with the authority to delegate or appoint any person or public agency to preside over the hearing and adjudicate the appeal, and the chief executive officer shall identify the party responsible for entering a final decision for the corporation.

(d) At the time that a master licensee receives notice of a potential revocation of its master license as provided in this Code section, the master licensee shall be prohibited from assigning, selling, or otherwise transferring any of its contracts with location owners or location operators to any other master licensee or other person, and such prohibition shall remain in effect unless or until a final decision, not subject to further appeal, is rendered which does not result in the revocation of the master license. After a master license is revoked by final order and no other appeals are available, any contracts between a master licensee and a location owner or location operator for the providing of bona fide coin operated amusement machines shall be null and void. Nothing in this subsection shall prevent a location owner or location operator from exercising any contractual right to place machines of another master licensee in such location.

#### **§ 50-27-75. Delivery of order refusing application or imposing sanction**

(a) The corporation shall deliver to the applicant or licensee a written copy of the order refusing an application or renewal application, revoking a master license, or imposing any other sanction provided in this article issued after any required hearing provided by Code Section 50-27-74.

(b) Delivery of the corporation's order may be given by:

- (1) Personal service upon an individual applicant or licensee;
- (2) Personal service upon any officer, director, partner, trustee, or receiver, as the case may be;
- (3) Personal service upon the person in charge of the business premises, temporarily or otherwise, of the applicant or licensee;
- (4) Sending such notice by United States certified mail or statutory overnight delivery addressed to the business premises of the applicant or licensee; or
- (5) Posting notice upon the outside door of the business premises of the applicant or licensee.

(c) Notice shall be deemed complete upon the performance of any action authorized in this Code section.

**§ 50-27-76. Judicial review of action by corporation or chief executive officer**

(a) Appeal by an affected person from all actions of the corporation or chief executive officer shall be to the Superior Court of Fulton County. The review shall be conducted by the court and shall be confined to the record.

(b) The court shall not substitute its judgment for that of the corporation or chief executive officer as to the weight of the evidence on questions of fact committed to the discretion of the corporation or chief executive officer. The court may affirm the decision of the corporation or chief executive officer in whole or in part; the court shall reverse or remand the case for further proceedings if substantial rights of the appellant have been prejudiced because the corporation's or chief executive officer's findings, inferences, conclusions, or decisions are:

(1) In violation of constitutional or statutory provisions;

(2) In excess of the statutory authority of the corporation or chief executive officer;

(3) Made upon unlawful procedures;

(4) Affected by other error of law;

(5) Not reasonably supported by substantial evidence in view of the reliable and probative evidence in the record as a whole; or

(6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.

**§ 50-27-77. Appeal from superior court**

Appeal from any final judgment of the Superior Court of Fulton County may be taken by any party, including the corporation, in the manner provided for in civil actions generally.

**§ 50-27-78. Payment and collection of annual permit fee; permit stickers; treatment of fees; penalty for defacing sticker**

(a) Every owner, except an owner holding a coin operated amusement machine solely for personal use or resale, who offers others the opportunity to play for a charge, whether direct or indirect, any bona fide coin operated amusement machine shall pay an annual permit fee for each bona fide coin operated amusement machine in the amount of \$25.00 for each Class A machine and \$125.00 for each Class B machine. The fee shall be paid to the corporation by company check, cash, cashier's check, money order, or any other method approved by the chief executive officer. Upon payment, the corporation shall issue a sticker for each bona fide coin operated amusement machine. The board may establish procedures for annual collection and set due dates for the fee payments. No refund or credit of the annual fee levied by this article shall be allowed to any owner who ceases the exhibition or display of any bona fide coin operated amusement machine prior to the end of any license or permit period.

(b) The sticker issued by the corporation to evidence the payment of the fee under this

Code section shall be securely attached to the machine. Owners may transfer stickers from one machine to another in the same class and from location to location so long as all machines in commercial use available for play by the public have a sticker of the correct class and the owner uses the stickers only for machines that it owns.

(c) Each permit sticker shall not list the name of the owner but shall have a control number which corresponds with the control number issued on the master license certificate to allow for effective monitoring of the licensing and permit system. Permit stickers are only required for bona fide coin operated amusement machines in commercial use available to the public for play at a location.

(d) The corporation may provide a duplicate permit sticker if a valid permit sticker has been lost, stolen, or destroyed. The fee for a duplicate permit sticker shall be \$25.00 for each Class A machine and \$125.00 for each Class B machine. If a permit sticker is lost, stolen, or destroyed, a sworn, written statement must be submitted explaining the circumstances by which the permit sticker was lost, stolen, or destroyed and including the number of the lost, stolen, or destroyed permit before a replacement permit can be issued. A permit for which a duplicate permit sticker has been issued is void.

(e) Each permit sticker issued for a bona fide coin operated amusement machine which rewards a winning player exclusively with free replays, noncash redemption merchandise, prizes, toys, gift certificates, or novelties; or points, tokens, tickets, cards, or other evidence of winnings that may be exchanged for free replays or noncash redemption merchandise, prizes, toys, gift certificates, or novelties, in accordance with the provisions of subsections (b) through (d) of Code Section 16-12-35 shall include the following: "GEORGIA LAW PROHIBITS THE PAYMENT OR RECEIPT OF ANY MONEY FOR REPLAYS OR MERCHANDISE AWARDED FOR PLAYING THIS MACHINE. O.C.G.A. SECTION 16-12-35."

(f) The corporation shall not assess any fees that are not explicitly authorized under this article on a manufacturer, distributor, operator, location owner, or location operator.

(g) All fees assessed by the corporation pursuant to this article shall be considered proceeds derived from a lottery operated on or on behalf of the state and shall not be remitted to the general fund pursuant to Article I, Section II, Paragraph VIII(c) of the Constitution.

(h) It shall be unlawful to remove or deface a sticker which is attached to a machine without authorization by the owner of the machine or the corporation. A violation of this subsection shall be a misdemeanor.

#### **§ 50-27-79. Refund of annual permit fee**

No refund shall be allowed for the annual permit fee assessed on each bona fide coin operated amusement machine registered with the corporation except as follows:

(1) The owner makes a written request to the corporation for a refund prior to the beginning of the calendar year for which the permit sticker was purchased and returns the permit sticker;

(2) The owner makes a written request for a refund prior to the issuance of the permit

sticker;

(3) The owner makes a written request for a refund claiming the permit sticker was mistakenly purchased for a machine not subject to the permit fee and returns the permit sticker; or

(4) The owner provides the corporation with a sworn affidavit that a machine was sold, stolen, or destroyed prior to the beginning of the calendar year for which the permit was purchased and returns the sticker unless it was attached to the stolen or destroyed machine.

**§ 50-27-80. Permit fees for additional machines; penalty fee**

If an owner purchases or receives additional bona fide coin operated amusement machines during the calendar year, the applicable annual permit fee shall be paid to the corporation and the sticker shall be affixed to the machine before the machine may be legally operated. A penalty fee equal to twice the applicable annual permit fee shall be assessed by the corporation for every machine in operation without a permit sticker.

**§ 50-27-81. Administration of article**

(a) The chief executive officer shall provide for the proper administration of this article and is authorized to act on behalf of the corporation for such purpose. The chief executive officer may initiate investigations, hearings, and take other necessary measures to ensure compliance with the provisions of this article or to determine whether violations exist. If the chief executive officer finds evidence of any criminal violations, he or she shall notify the appropriate prosecuting attorney in the county in which such violation occurred.

(b) The chief executive officer is authorized to provide for the enforcement of this article and the board shall provide for collection of the revenues under this article by rule and regulation.

(c) The chief executive officer may delegate to an authorized representative any authority given to the chief executive officer by this article, including the conduct of investigations, imposing of fees and fines, and the holding of hearings.

**§ 50-27-82. Criminal violations; investigations; seizure and confiscation of machines; repossession; sealing of machines**

(a) If any owner or operator of any bona fide coin operated amusement machine in this state shall violate any provision of this article or any rule and regulation promulgated under this article, the corporation may investigate the violation and may seek sanctions, including late fees of \$50.00 for failure to pay timely permit sticker fees, \$125.00 for failure to pay timely the master license fee, suspension or revocation of a license, seizure of equipment, interest penalty, and debarment for repeat offenders.

(b) No person other than an owner shall intentionally remove a current permit sticker from a bona fide coin operated amusement machine or from the location where the machine is located. Any person who violates this subsection shall be guilty of a misdemeanor.

(c) A person who owns or operates bona fide coin operated amusement machines without a current master license or without a permit sticker on display shall be guilty of a misdemeanor.

(d) A person who knowingly makes a material false statement on any application or renewal application for a master license or permit sticker under this article by fraud, misrepresentation, or subterfuge or makes a material false entry on any book, record, or report which is compiled, maintained, or submitted to the corporation pursuant to the provisions of this article is guilty of a felony and upon conviction thereof shall be punished by imprisonment for not less than one nor more than five years, a fine not to exceed \$25,000.00, or both.

(e) Any bona fide coin operated amusement machine not having the required master license or permit stickers may be seized and confiscated by the corporation's agents or employees and sold at public auction after 30 days' advertisement. Upon payment of the license required, the corporation may return any property so seized and confiscated and compromise any fee or penalty assessed. The owner from whom the bona fide coin operated amusement machine is seized may, at any time within ten days after the seizure, repossess the property by filing with the corporation a bond, in cash or executed by a surety company authorized to do business in this state, in double amount of the tax and penalties due. Within 30 days after the bond has been filed, the owner must bring an action in a court of competent jurisdiction to have the seizure set aside; otherwise, the bond so filed shall be declared forfeited to the corporation.

(f) The chief executive officer or an authorized representative thereof may seal in a manner that will prevent its full operation any such bona fide coin operated amusement machine that is in commercial use available to the public for play whose master license or sticker under this article has been suspended or revoked, upon which the fee has not been paid, or that is not registered with the corporation under this article. Whoever shall break the seal affixed by the chief executive officer or an authorized representative thereof without the chief executive officer's approval or whoever shall provide in commercial use available to the public for play any such bona fide coin operated amusement machine after the seal has been broken without the chief executive officer's approval or whoever shall remove any bona fide coin operated amusement machine from its location after the same has been sealed by the chief executive officer shall be guilty of a misdemeanor. The corporation shall charge a fee of \$75.00 for the release of any bona fide coin operated amusement machine which is sealed. The fee shall be paid to the corporation.

### **§ 50-27-83. Validity of prior existing obligations to state**

(a) All taxes, fees, penalties, and interest accruing to the State of Georgia under any other provision of Title 48 as it existed prior to July 1, 2010, shall be and remain valid and binding obligations to the State of Georgia for all taxes, penalties, and interest accruing under the provisions of prior or preexisting laws and all such taxes, penalties, and interest now or hereafter becoming delinquent to the State of Georgia prior to July 1, 2010, are expressly preserved and declared to be legal and valid obligations to the state.

(b) The enactment and amendment of this article shall not affect offenses committed or prosecutions begun under any preexisting law, but any such offenses or prosecutions may

be conducted under the law as it existed at the time of the commission of the offense.

(c) Nothing in this article shall be construed or have the effect to license, permit, authorize, or legalize any machine, device, table, or bona fide coin operated amusement machine the keeping, exhibition, operation, display, or maintenance of which is in violation of the laws or Constitution of this state.

**§ 50-27-84. Limitation on percent of monthly gross retail receipts derived from machines; monthly verified reports; issuance of fine or revocation or suspension of license for violations; submission of electronic reports**

(a) As used in this Code section, the term:

(1) "Amusement or recreational establishment" means an open-air establishment frequented by the public for amusement or recreation. Such an establishment shall be in a licensed fixed location located in this state and which has been in operation for at least 35 years.

(2) "Business location" means any structure, vehicle, or establishment where a business is conducted.

(3) "Gross retail receipts" means the total revenue derived by a business at any one business location from the sale of goods and services and the commission earned at any one business location on the sale of goods and services but shall not include revenue from the sale of goods or services for which the business will receive only a commission. The sale of goods or services for which the business will receive only a commission shall not include the sale of any item which the business has purchased for resale. Revenue shall not include the sale of goods and services at wholesale.

(b) (1) No location owner or location operator shall derive more than 50 percent of such location owner's or location operator's monthly gross retail receipts for the business location in which the Class B machine or machines are situated from such Class B machines; provided, however, that revenues that are due to a master licensee or the corporation or noncash redemption that is earned by the player shall not be deemed revenue derived from Class B machines.

(2) No location owner or location operator shall offer more than nine Class B machines to the public for play in the same business location; provided, however, that this limitation shall not apply to an amusement or recreational establishment.

(c) For each business location which offers to the public one or more Class B machines, the location owner or location operator shall prepare a monthly verified report setting out separately by location in Georgia:

(1) The gross receipts from the Class B machines;

(2) The gross retail receipts for the business location; and

(3) The net receipts of the Class B machines.

(c.1) Each person holding a Class B master license shall prepare a monthly verified report setting out separately by location in Georgia:

(1) The gross receipts from the Class B machines which the master licensee maintains; and

(2) The net receipts of the Class B machines.

(d) In accordance with the provisions of Code Section 50-27-73 and the procedures set out in Code Sections 50-27-74 and 50-27-75, the corporation may fine an applicant or holder of a license, refuse to issue or renew a location license or master license, or revoke or suspend a location license or master license for single or repeated violations of subsection (b) of this Code section.

(e) A location owner or location operator shall report the information prescribed in this Code section in the form required by the corporation. Such report shall be submitted in an electronic format approved by the corporation.

(f) Beginning on August 20, 2013, and on the twentieth day of each month thereafter, for the previous month, the reports required by subsections (c) and (c.1) of this Code section shall be supplied to the corporation on forms provided by the corporation, including electronic means. The corporation shall be authorized to audit any records for any such business location or master licensee subject to this Code section. The corporation may contract with any state agencies to perform the audits authorized by this Code section, and it may contract or enter into a memorandum of understanding with the Department of Revenue to enforce the provisions of this Code section.

#### **§ 50-27-85. Penalties for violations by location owners or operators**

(a) Except as specifically provided in this article, for single or repeated violations of this article by a location owner or location operator who offers one or more bona fide coin operated amusement machines for play by the public, the corporation may impose the following penalties on such a location owner or location operator:

(1) A civil fine in an amount specified in rules and regulations promulgated in accordance with this article; or

(2) For a third or subsequent offense, a suspension or revocation of the privilege of offering one or more bona fide coin operated amusement machines for play by the public.

(b) Before a penalty is imposed in accordance with this Code section, a location owner or location operator shall be entitled to at least 30 days' written notice and, if requested, a hearing as provided in Code Section 50-27-74. Such written notice shall be served in the manner provided for written notices to applicants and holders of licenses in subsection (b) of Code Section 50-27-74, and an order imposing a penalty shall be delivered in the manner provided for delivery of the corporation's orders to applicants for licenses and holders of licenses in Code Section 50-27-75.



(c) In the case of a suspension or revocation in accordance with this Code section, the corporation shall require the location owner or location operator to post a notice in the business location setting out the period of the suspension or revocation. No applicant or holder of a license or permit shall allow a bona fide coin operated amusement machine under the control of such applicant or holder of a license or permit to be placed in a business location owned or operated by a location owner or location operator who has been penalized by a suspension or revocation during the period of the suspension or revocation.

**§ 50-27-86. Local government to adopt any combination of a list of ordinance provisions**

In addition to the state regulatory provisions regarding bona fide coin operated amusement machines contained in Code Section 16-12-35 and this article, the governing authority of any county or municipal corporation shall be authorized to enact and enforce an ordinance which includes any or all of the following provisions:

(1) Prohibiting the offering to the public of more than six Class B machines that reward the player exclusively with noncash merchandise, prizes, toys, gift certificates, or novelties at the same business location;

(2) Requiring the owner or operator of a business location which offers to the public any bona fide coin operated amusement machine that rewards the player exclusively as described in subsection (d) of Code Section 16-12-35 to inform all employees of the prohibitions and penalties set out in subsections (e), (f), and (g) of Code Section 16-12-35;

(3) Requiring the owner or possessor of any bona fide coin operated amusement machine that rewards the player exclusively as described in subsection (d) of Code Section 16-12-35 to inform each location owner or location operator of the business location where such machine is located of the prohibitions and penalties set out in subsections (e), (f), and (g) of Code Section 16-12-35;

(4) Providing for the suspension or revocation of a license granted by such local governing authority to manufacture, distribute, or sell alcoholic beverages or for the suspension or revocation of any other license granted by such local governing authority as a penalty for conviction of the location owner or location operator of a violation of subsection (e), (f), or (g) of Code Section 16-12-35, or both. An ordinance providing for the suspension or revocation of a license shall conform to the due process guidelines for granting, refusal, suspension, or revocation of a license for the manufacture, distribution, or sale of alcoholic beverages set out in subsection (b) of Code Section 3-3-2;

(5) Providing for penalties, including fines or suspension or revocation of a license as provided in paragraph (4) of this subsection, or both, for a violation of any ordinance enacted pursuant to this subsection; provided, however, that a municipal corporation shall not be authorized to impose any penalty greater than the maximum penalty authorized by such municipal corporation's charter;

(6) Requiring any location owner or location operator subject to paragraph (1) of subsection (b) of Code Section 50-27-84 to provide to the local governing authority a copy

of each verified monthly report prepared in accordance with such Code section, incorporating the provisions of such Code section in the ordinance, providing for any and all of the penalties authorized by subsection (d) of Code Section 50-27-84, and allowing an annual audit of the reports from the location owner or location operator;

(7) Requiring the location owner or location operator of any business location which offers to the public one or more bona fide coin operated amusement machines to post prominently a notice including the following or substantially similar language:

"GEORGIA LAW PROHIBITS PAYMENT OR RECEIPT OF MONEY FOR WINNING A GAME OR GAMES ON THIS AMUSEMENT MACHINE; PAYMENT OR RECEIPT OF MONEY FOR FREE REPLAYS WON ON THIS AMUSEMENT MACHINE; PAYMENT OR RECEIPT OF MONEY FOR ANY MERCHANDISE, PRIZE, TOY, GIFT CERTIFICATE, OR NOVELTY WON ON THIS AMUSEMENT MACHINE; OR AWARDING ANY MERCHANDISE, PRIZE, TOY, GIFT CERTIFICATE, OR NOVELTY OF A VALUE EXCEEDING \$5.00 FOR A SINGLE PLAY OF THIS MACHINE.";

(8) Providing for restrictions relating to distance from specified structures or uses so long as those distance requirements are no more restrictive than such requirements applicable to the sale of alcoholic beverages;

(9) Requiring as a condition for doing business in the jurisdiction disclosure by the location owner or location operator of the name and address of the owner of the bona fide coin operated amusement machine or machines;

(10) Requiring that all bona fide coin operated amusement machines are placed and kept in plain view and accessible to any person who is at the business location; and

(11) Requiring a business that offers one or more bona fide coin operated amusement machines to the public for play to post its business license or occupation tax certificate.

#### **§ 50-27-87. Master licenses; requirements and restrictions for licensees**

(a) (1) Except as provided in this Code section, a person shall not own, maintain, place, or lease a bona fide coin operated amusement machine unless he or she has a valid master license; provided, however, that a manufacturer or distributor may own a bona fide coin operated amusement machine intended for sale to an operator, master licensee, manufacturer, or distributor.

(2) A master licensee shall only place or lease bona fide coin operated amusement machines for use in Georgia in a licensed location owner's or location operator's establishments.

(3) To be eligible as a master licensee, the person shall not have had a gambling license in any state for at least five years prior to obtaining or renewing a Georgia master's license.

(4) On or after July 1, 2013, no person with or applying for a master license shall have an interest in any manufacturer, distributor, location owner, or location operator in this state. No person with or applying for a manufacturer license shall have an interest in a distributor, master licensee, location owner, or location operator in this state. No person applying for a distributor license shall have an interest in a manufacturer, master licensee, location owner,

or location operator in this state. Additionally, no group or association whose membership includes manufacturers, distributors, operators, master licensees, location owners, or location operators shall obtain a master license nor shall they form an entity which acts as a master licensee, operator, location owner, or location operator for the purpose of obtaining a master license; provided, however, that through June 30, 2015, this paragraph shall not apply to persons who, as of December 31, 2013, have or will have continuously possessed a master license for ten or more years and, for ten or more years, have or will have continuously owned or operated a location where a bona fide coin operated machine has been placed. Nothing in this paragraph shall prohibit a manufacturer, distributor, or master licensee from entering into a financing arrangement with the other for the sale of machines, including but not limited to a lien, guaranty, or line of credit.

(5) Failure to adhere to the provisions of this subsection shall result in a fine of not more than \$50,000.00 and loss of the license for a period of one to five years per incident and subject the master licensee to the loss of any other state or local license held by the master licensee. The corporation shall notify any state or federal agency that issues a license to such master licensee of the breach of its duties under this article.

(b) (1) No bona fide coin operated amusement machine, its parts, or software or hardware shall be placed or leased in any location owner's or location operator's establishment except by a master licensee and only if the owner or agent of the location owner or location operator has entered into a written agreement with a master licensee for placement of the bona fide coin operated amusement machine. Beginning on July 1, 2013, no person with or applying for a location owner's or location operator's license shall have an interest in any person or immediate family member of a person with a master license, or doing business as a distributor, or manufacturer in this state. A location owner or location operator may sell a bona fide coin operated amusement machine to anyone except another location owner or location operator. Failure to adhere to this subsection shall result in a fine of up to \$50,000.00 and loss of the location owner's or location operator's license for a period of one to five years per incident and subject the location owner or location operator to the loss of any other state or local licenses held by the location owner or location operator. The corporation shall notify any state or federal agency that issues a license to such location owner or location operator of the breach of its duties under this article.

(2) A copy of the written agreement shall be on file in the master licensee's and the location owner's and location operator's place of business and available for inspection by individuals authorized by the corporation.

(3) (A) Any written agreement entered into after April 10, 2013, shall be exclusive as between one bona fide coin operated amusement machine master licensee and one location owner or location operator per location. Any agreement entered into before April 10, 2013, shall not be deemed void for failure to allocate revenue pursuant to Code Section 50-27-87.1 or 50-27-102, and notwithstanding any agreements between master licensees and location owners and location operators, both shall act in a manner that complies with this chapter.

(B) Any agreement entered into or renewed after May 3, 2016, shall be for at least one year.

(C) Any applicant for a new location license for a location where machines have been placed at any time in the immediately preceding nine months shall either:

(i) Not place machines in such location for nine months from the date of the granting of the location license; or

(ii) Formally accept an assignment of the written agreement between the master licensee and the immediately preceding location owner or location operator; provided, however, that the master licensee may refuse to assign the written agreement.

For the purposes of division (ii) of this subparagraph, the master licensee is the master licensee that, in the nine months preceding the application for a new location license, had the last written agreement with the immediately preceding location owner or location operator or the master licensee that, in the nine months preceding the application for a new location license, had requested or commenced a hearing pursuant to Code Section 50-27-102, whichever had machines placed in the location first.

(c) No person shall receive a portion of any proceeds or revenue from the operation of a bona fide coin operated amusement machine except the operator, location owner, or location operator, notwithstanding Code Section 50-27-102. No commission or fee shall be awarded for the facilitation of a contract or agreement between a master licensee and a location owner or location operator; provided, however, that an employee of a master licensee may receive compensation, including a commission, for such agreements or contracts. A master licensee shall not pay a commission or provide anything of value to any person who is an employee, independent contractor, or immediate family member of a location owner or location operator.

(d) This Code section shall only apply to manufacturers, distributors, operators, master licensees, and location owners or location operators of Class B machines.

### **§ 50-27-87.1. Unfair methods of competition; unfair and deceptive acts**

The following acts or practices are deemed unfair methods of competition and unfair and deceptive acts under this article:

(1) Until the corporation certifies that the Class B accounting terminal authorized by Code Section 50-27-101 is implemented, a master licensee, location owner, or location operator retaining more than 50 percent of the net monthly proceeds for the operation of a Class B machine;

(2) A master licensee or owner entering into an agreement with a manufacturer or distributor:

(A) That grants the owner or master licensee exclusive rights to own, maintain, place, or lease a type, model, or brand of bona fide coin operated amusement machine in this state; or

(B) For the lease of a bona fide coin operated amusement machine, its parts, or software or hardware;

(3) A location owner or location operator asking, demanding, or accepting anything of value, including but not limited to a loan or financing arrangement, gift, procurement fee, lease payments, revenue sharing, or payment of license fees or permit fees from a manufacturer, distributor, or master licensee, as an incentive, inducement, or any other consideration to locate bona fide coin operated amusement machines in that establishment. A location owner that violates this subsection shall have all of the location owner's state business licenses revoked for a period of one to five years per incident. The location owner also shall be fined up to \$50,000.00 per incident and required to repay any incentive fees or other payments received from the operator; and

(4) A manufacturer, distributor, operator, master licensee, or individual providing anything of value, including but not limited to a loan or financing arrangement, gift, procurement fee, lease payments, revenue sharing, or payment of license fees or permit fees to a location owner or location operator, as any incentive, inducement, or any other consideration to locate bona fide coin operated amusement machines in that establishment. A manufacturer, distributor, operator, master licensee, or individual who violates this subsection shall have all of his or her state business licenses revoked for a period of one to five years per incident. The individual, manufacturer, distributor, owner, or master licensee also shall be fined up to \$50,000.00 per incident.

**§ 50-27-88. Establishment of rules and policies; application for license**

(a) The corporation shall establish rules or policies, with the advice of the Bona Fide Coin Operated Amusement Machine Operator Advisory Board, to establish or create:

(1) Forms and information reasonably required for the submission of a license application; and

(2) Procedures to ensure that applicants for a license provide the identical name and address of the applicant as stated in the application for a license required by local governing authorities and specify the premises where the licensee shall have its place of business.

(b) Any legal entity, including but not limited to all partnerships, limited liability companies, and domestic or foreign corporations, lawfully registered and doing business under the laws of Georgia or the laws of another state and authorized by the Secretary of State to do business in Georgia which seeks to obtain a license for bona fide coin operated amusement machines may be permitted to apply for a license in the name of the legal entity as it is registered in the office of the Secretary of State; provided, however, that:

(1) In its application for any bona fide coin operated amusement machine license, the legal entity shall provide the corporation with the name and address of its agent authorized to receive service of process under the laws of Georgia, together with a listing of its current officers and their respective addresses;

(2) Any change in the status of licensee's registered agent, including but not limited to change of address or name, shall be reported to the corporation within ten business days of such occurrence;

(3) In the event that a legal entity shall fail to appoint or maintain a registered agent in Georgia as required by law, or whenever its registered agent cannot with due diligence be found at the registered office of the business as designated in its application for license, the chief executive officer shall be appointed agent to receive any citation for violation of the provisions of this article;

(4) Process may be served upon the chief executive officer by leaving with the chief executive officer duplicate copies of such citations;

(5) In the event that the notice of citation is served upon the chief executive officer or one of the chief executive officer's designated agents, the chief executive officer shall immediately forward one of the copies to the business at its registered office;

(6) Any service made upon the chief executive officer shall be answerable within 30 days; and

(7) The corporation shall keep a record of all citations served upon the chief executive officer under this article and shall record the time of service and the disposition of that service.

**§ 50-27-89. Bona Fide Coin Operated Amusement Machine Operator Advisory Board; membership; terms; policies and procedures; selection of vendors**

(a) There shall be a Bona Fide Coin Operated Amusement Machine Operator Advisory Board to be composed of ten members. The chief executive officer of the corporation shall serve as a member. Two members shall be appointed by the Speaker of the House of Representatives, two members by the Lieutenant Governor, and five members by the Governor; at least one appointee shall be a licensed location owner or location operator. At least seven members shall be Georgia operators with current master licenses representing the broadest possible spectrum of business characteristics of bona fide coin operated amusement machine operators.

(b) Members appointed to the advisory board shall serve terms of four years. Upon the expiration of a member's term of office, a new member appointed in the same manner as the member whose term of office expired as provided in subsection (a) of this Code section shall become a member of the advisory board and shall serve for a term of four years and until such member's successor is duly appointed and qualified. If a vacancy occurs in the membership of the advisory board, a new member shall be appointed for the unexpired term of office by the official who appointed the vacating member. Members may be reappointed to additional terms.

(c) The advisory board shall establish its own policies and internal operating procedures. Members of the advisory board shall serve without compensation or reimbursement of expenses. The advisory board may report to the corporation in writing at any time. The corporation may invite the advisory board to make an oral presentation to the corporation.

(d) The advisory board shall have the exclusive authority to initiate a process to determine a variety of cost-effective, efficacious, and fiscally responsible approaches for consideration by the corporation of a Class B accounting terminal authorized by Code Section 50-27-101;

provided, however, that the board shall comply with the deadline contained in subsection (a) of Code Section 50-27-101 for procuring the centralized accounting terminal and communications network. The advisory board shall be further authorized to contract with the Department of Administrative Services to develop a request for proposal to receive bids to provide the Class B accounting terminal and shall submit a minimum of three recommended proposals to the corporation unless only two vendors respond. The corporation shall select one of the recommended proposals to serve as the Class B accounting terminal vendor.

(e) No advisory board member, corporation member, or immediate family of either may own a substantial interest in or be an employee, independent contractor, agent, or officer of any vendor recommended to or selected by the corporation. For the purposes of this Code section, "substantial interest" means the direct or indirect ownership of any privately held assets or stock or over \$5,000.00 in publicly traded stock.

### **§ 50-27-100. Legislative findings**

The General Assembly finds that:

(1) There is a compelling state interest in ensuring the most efficient, honest, and accurate regulation of the bona fide coin operated amusement machine industry in this state; and

(2) The most efficient, accurate, and honest regulation of the bona fide coin operated amusement machine industry in this state can best be facilitated by establishing a Class B accounting terminal to which all Class B machines will be linked by a communications network to provide superior capability of auditing, reporting, and regulation of the coin operated amusement machine industry.

### **§ 50-27-101. Class B accounting terminal; communication networks; other procedures and policies**

(a) On or before July 1, 2014, in cooperation with the Bona Fide Coin Operated Amusement Machine Operator Advisory Board established under Code Section 50-27-89, the corporation shall procure a Class B accounting terminal linked by a communications network through which all Class B machines in a location shall connect to a single point of commerce for the purpose of accounting and reporting to the state. In no event shall the terminal approved by the corporation limit participation to only one manufacturer or one type of bona fide coin operated amusement machine. Consideration shall be given to the cost associated with retrofitting all existing Class B machines and efforts made to minimize that cost.

(b) Six months after the procurement of a Class B accounting terminal and successful pilot testing, all Class B machines shall be linked by a communications network to a Class B accounting terminal for purposes of monitoring and reading device activities as provided for in this Code section. When the corporation is satisfied with the operation of the Class B accounting terminal it shall certify the effective status of the Class B accounting terminal and notify all licensees of such certification.

(c) The Class B accounting terminal shall be designed and operated to allow the monitoring

and reading of all Class B machines for the purpose of compliance with regard to their obligations to the state. The Class B accounting terminal shall be located within and administered by the corporation.

(d) The Class B accounting terminal shall not provide for the monitoring or reading of personal or financial information concerning patrons of bona fide coin operated amusement machines.

(e) Any entity that acts as a vendor for the corporation in building, operating, maintaining, or contracting to build, operate, or maintain a Class B accounting terminal shall be prohibited from obtaining a license as an operator or location owner or location operator. As used in this subsection, the term "entity" shall also include the entity's employees, independent contractors, consultants, or any other person as defined in paragraph (15) of subsection (b) of Code Section 50-27-70 which is related to the entity during the time the vendor is involved with providing service as it relates to the Class B accounting terminal for the corporation.

(f) Except as provided in subsection (e) of Code Section 50-27-73, nothing in this part shall be construed to provide any authority to the corporation to limit or eliminate Class B machines or to limit, eliminate, or unduly restrict the number of licenses, permits, or certifications for operators or location owners or location operators.

(g) The corporation shall not expand, limit, or otherwise alter what constitutes a bona fide coin operated amusement machine and the permitted redemption related items, except that the corporation shall be permitted to authorize any ticket or product of the corporation.

**§ 50-27-102. Role of corporation; implementation and certification; separation of funds and accounting; disputes**

(a) Upon successful implementation and certification of the Class B accounting terminal under the provisions of Code Section 50-27-101, and for the first fiscal year thereafter, the corporation shall:

(1) Retain 5 percent of the net receipts;

(2) Provide, within five business days of receipt, 47.5 percent of the net receipts to the location owner and location operator for the cost associated with allowing the Class B machines to be placed; and

(3) Provide, within five business days of receipt, 47.5 percent of the net receipts to the operator holding the Class B master license for the cost of securing, operating, and monitoring the machines.

(b) In each fiscal year after the implementation and certification required by subsection (a) of this Code section, the corporation's share shall increase 1 percent, taken evenly from the location owner or location operator and the operator, to a maximum of 10 percent.

(c) The corporation shall require location owners and location operators to place all bona fide coin operated amusement machine proceeds due the corporation in a segregated



account in institutions insured by the Federal Deposit Insurance Corporation not later than the close of the next banking day after the date of their collection by the retailer until the date they are paid over to the corporation. At the time of such deposit, bona fide coin operated amusement machine proceeds shall be deemed to be the property of the corporation. The corporation may require a location owner or location operator to establish a single separate electronic funds transfer account where available for the purpose of receiving proceeds from Class B machines, making payments to the corporation, and receiving payments for the corporation. Unless otherwise authorized in writing by the corporation, each bona fide coin operated amusement machine location owner or location operator shall establish a separate bank account for bona fide coin operated amusement machine proceeds which shall be kept separate and apart from all other funds and assets and shall not be commingled with any other funds or assets. Whenever any person who receives proceeds from bona fide coin operated amusement machines becomes insolvent, the proceeds due the corporation from such person shall have preference over all debts or demands. Whenever any person who receives proceeds from bona fide coin operated amusement machines dies insolvent, the proceeds due the corporation from such person's estate shall have preference over all debts or demands except the provision of year's support for such person's family. If any financial obligation to the corporation has not been timely received, the officers, directors, members, partners, or shareholders of the location owner or location operator shall be personally liable for the moneys owed to the corporation.

(d) (1) As a condition of the license issued pursuant to this article, no master licensee or location owner or location operator shall replace or remove a Class A or Class B bona fide coin operated amusement machine from a location until the master licensee and location owner or location operator certify to the corporation that there are no disputes regarding any agreement, distribution of funds, or other claim between the master licensee and location owner or location operator; provided, however, that this certification shall not be required if a master licensee is replacing its own Class A or Class B bona fide coin operated amusement machine at a location. If either the master licensee or location owner or location operator is unable to make the certification required by this Code section, the corporation shall refer the dispute to a hearing officer as set forth in this subsection.

(2) The corporation shall have jurisdiction of all disputes between and among any licensees or former licensees whose licenses were issued pursuant to this article relating in any way to any agreement involving coin operated amusement machines, distribution of funds, tortious interference with contract, other claims against a subsequent master license holder or location owner, or any other claim involving coin operated amusement machines; provided, however, that this paragraph shall not apply to any agreement which expired on or before April 10, 2013. Except as provided in paragraph (1) of this subsection, the corporation shall refer any dispute certified by any master licensee against any other master licensee or any location owner or location operator or by any location owner or location operator against any master licensee to a hearing officer. For the purpose of service on licensees with respect to disputes, each licensee or former licensee shall register and keep current with the corporation the name of an agent and his or her address and an e-mail address which shall be made available to any licensee on request. Service by registered mail, courier delivery, or overnight mail delivered to the agent's registered address and to the e-mail address shall be adequate service on the licensee for a hearing on the dispute.

All disputes subject to the provisions of this Code section certified by a master licensee, location owner, or location operator shall be decided by a hearing officer approved or appointed by the corporation. The corporation shall adopt rules and regulations governing the selection of hearing officers after consultation with the Bona Fide Coin Operated Amusement Machine Operator Advisory Board. Costs of the hearing officer's review, including any hearing set pursuant to this Code section, shall be shared equally between the parties in the dispute unless provided otherwise in the agreement or by the hearing officer; provided, however, that the corporation shall not be responsible for any of the costs associated with the dispute resolution mechanism set forth in this Code section. If any party fails to timely pay the costs of the hearing officer's review within ten days of service of notice of costs by the hearing officer, the hearing officer shall grant a default judgment on liability against the nonpaying party. The hearing officer shall then consider evidence related to damages or any other relief and shall render judgment based upon a preponderance of the evidence.

(3) The corporation shall also adopt rules governing the procedure, evidentiary matters, and any prehearing discovery applicable to disputes resolved pursuant to this Code section. Such rules shall be consistent with the Georgia Arbitration Code, and the corporation shall consult the Bona Fide Coin Operated Amusement Machine Operator Advisory Board regarding the procedures or rules adopted pursuant to this subsection. Notwithstanding Code Section 9-9-9, such procedures and rules shall include at least the right of notice to produce books, writings, and other documents or tangible things; depositions; and interrogatories.

(4) If requested by the master licensee or the location owner or location operator, the hearing officer shall conduct a hearing as to the dispute, but in no case unless extended by the hearing officer for good cause shall the hearing officer conduct a hearing more than 90 days after he or she has been appointed or selected to decide the dispute. No Class B bona fide coin operated amusement machine that is subject to the dispute resolution mechanism required by this Code section shall be removed from the terminal by a master licensee, location owner, or location operator or otherwise prevented by a master licensee, location owner, or location operator from play by the public until a final decision is entered and all appellate rights have been exhausted, or until the master licensee and location owner or location operator agree to a resolution, whichever occurs first.

(5) The decision of the hearing officer may be appealed to the chief executive officer or his or her designee. The chief executive officer shall not reverse a finding of fact of the hearing officer if any evidence supports the hearing officer's conclusion. The chief executive officer shall not reverse a conclusion of law of the hearing officer unless it was clearly erroneous, arbitrary, and capricious or exceeded the hearing officer's jurisdiction. The decision of the chief executive officer may be appealed to the Superior Court of Fulton County, which court shall not reverse the chief executive officer's findings of fact unless it is against the weight of the evidence as set forth in Code Section 5-5-21, and the chief executive officer's legal conclusions shall not be set aside unless there is an error of law.

### **§ 50-27-103. Removal of Class B machines; notification; audits**

(a) Any local governing authority may, after providing no less than 60 days' notice to all master licensees and location owners and location operators, and in a manner consistent

with this Code section, vote to remove any Class B machines from the local jurisdiction.

(b) Beginning on the first day of the first January after the certification of the Class B accounting terminal under the provisions of Code Section 50-27-101:

(1) The corporation shall notify any master licensee and location owner and location operator of any materially adverse findings of any audit conducted by the corporation to ensure compliance with Code Section 50-27-102. The notice shall be provided to both the master licensee and the location owner or location operator, regardless of which party's acts or conduct caused the materially adverse finding;

(2) If, after the notice required by this Code section, another consecutive audit conducted by the corporation not less than six months later contains a similar materially adverse finding, the corporation shall notify the master licensee and the location owner or location operator that were audited and every master licensee and location owner and location operator in this state. After the second consecutive audit described in this paragraph, the corporation may enter into a corrective action plan with the master licensee or the location owner or location operator, or both. If the next audit conducted by the corporation not less than six months later contains a similar materially adverse finding, the corporation shall notify the master licensee and the location owner or location operator that were audited and every master licensee and location owner and location operator in this state, and such notice shall be considered an order by the corporation. Unless a longer period of time is agreed to by the corporation, not more than 30 days after the third consecutive materially adverse audit finding, the master licensee and location owner or location operator that were audited may appeal the findings of any of the three audits to the Office of State Administrative Hearings as a contested case under Chapter 13 of Title 50, the "Georgia Administrative Procedure Act." If the master licensee or location owner or location operator that was audited does not appeal the corporation's order as authorized in this Code section, it shall be deemed a final order and shall be used to determine whether the notice to local governing authorities provided for in paragraph (3) of this subsection is required, and only upon such notice shall the action described by subsection (a) of this Code section be authorized. For the purposes of this Code section, notice shall be provided in the same manner required by subsection (b) of Code Section 50-27-74; and

(3) If, pursuant to paragraph (2) of this subsection, a final judgment or final order has been entered against at least 15 percent of master licensees and location owners and location operators in a local jurisdiction over any consecutive two-year period, the corporation shall notify the city or county and each and every licensee in this state. § 50-27-103. Removal of Class B machines; notification; audits

(a) Any local governing authority may, after providing no less than 60 days' notice to all master licensees and location owners and location operators, and in a manner consistent with this Code section, vote to remove any Class B machines from the local jurisdiction.

(b) Beginning on the first day of the first January after the certification of the Class B accounting terminal under the provisions of Code Section 50-27-101:

(1) The corporation shall notify any master licensee and location owner and location

operator of any materially adverse findings of any audit conducted by the corporation to ensure compliance with Code Section 50-27-102. The notice shall be provided to both the master licensee and the location owner or location operator, regardless of which party's acts or conduct caused the materially adverse finding;

(2) If, after the notice required by this Code section, another consecutive audit conducted by the corporation not less than six months later contains a similar materially adverse finding, the corporation shall notify the master licensee and the location owner or location operator that were audited and every master licensee and location owner and location operator in this state. After the second consecutive audit described in this paragraph, the corporation may enter into a corrective action plan with the master licensee or the location owner or location operator, or both. If the next audit conducted by the corporation not less than six months later contains a similar materially adverse finding, the corporation shall notify the master licensee and the location owner or location operator that were audited and every master licensee and location owner and location operator in this state, and such notice shall be considered an order by the corporation. Unless a longer period of time is agreed to by the corporation, not more than 30 days after the third consecutive materially adverse audit finding, the master licensee and location owner or location operator that were audited may appeal the findings of any of the three audits to the Office of State Administrative Hearings as a contested case under Chapter 13 of Title 50, the "Georgia Administrative Procedure Act." If the master licensee or location owner or location operator that was audited does not appeal the corporation's order as authorized in this Code section, it shall be deemed a final order and shall be used to determine whether the notice to local governing authorities provided for in paragraph (3) of this subsection is required, and only upon such notice shall the action described by subsection (a) of this Code section be authorized. For the purposes of this Code section, notice shall be provided in the same manner required by subsection (b) of Code Section 50-27-74; and

(3) If, pursuant to paragraph (2) of this subsection, a final judgment or final order has been entered against at least 15 percent of master licensees and location owners and location operators in a local jurisdiction over any consecutive two-year period, the corporation shall notify the city or county and each and every licensee in this state.

#### **§ 50-27-104. Penalties**

The penalties provided for in this article shall be in addition to any criminal penalties that may otherwise be provided by law.