

# Sports Wagering Business Opportunities in Maryland



Taft/

January 19, 2022

# The Opportunity

The purpose of this document is to educate Maryland businesses of opportunities to participate in Maryland's sports wagering industry. Specifically, Maryland's Sports Wagering Application Review Commission ("**SWARC**") is seeking to contact persons or businesses interested in applying for a Class B Competitive License or Mobile License (each described herein).

# Sports Wagering in Maryland

- Chapter 356, Acts of 2021 (the “**Law**”) governs the implementation of sports wagering in the State of Maryland.
- The Law authorizes 3 types of sports wagering licenses:
  - Class A Sports Wagering Facility License (“**Class A License**”)
  - Class B Sports Wagering Facility License (“**Class B License**”)
    - Each Class A License and Class B License permits the holder of the license to operate sports wagering *at a single physical facility* owned, leased or occupied by the license holder.
  - Mobile Sports Wagering License (“**Mobile License**”) – permits the holder of the license to conduct sports wagering through a single online sports wagering website and/or application on a computer, mobile device or other interactive device.

# Sports Wagering in Maryland

- All Class A Licenses and 7 Class B Licenses are authorized to be issued to certain facilities designated in the Law (such licenses, the “**Designated Licenses**”). These facilities include Maryland’s casinos, sports stadiums, race tracks, OTB facilities and some commercial bingo facilities.
- In addition to these Designated Licenses, under the Law, SWARC may issue:
  - **Up to 30** additional Class B Licenses; and
  - **Up to 60** Mobile Licenses.

# Class A Designated Licenses

The Law authorizes two types of Class A Licenses – Class A-1 Licenses and Class A-2 Licenses – and designates the following Maryland businesses as eligible to obtain the Class A Licenses:

## Class A-1 License

- Three casinos with over 1,000 VLTs
  - Horseshoe Casino
  - Live! Casino
  - MGM
- Three stadiums/professional sports teams
  - Oriole Park
  - M&T Bank Stadium
  - FedEx Field
- Application fee is \$2 million

## Class A-2 License

- Three casinos with fewer than 1,000 VLTs
  - Hollywood Casino
  - Ocean Downs Casino
  - Rocky Gap Casino Resort
- One Laurel/Pimlico License
- Application fee is \$1 million

# Class B Designated Licenses

- The Law authorizes two types of Class B Licenses – Class B-1 Licenses and Class B-2 Licenses.
- The Law designates the following 7 Maryland businesses as being able to obtain a Class B License (the “**Class B Designated Licenses**”) after being found qualified by the MLGCC:
  - Maryland State Fairgrounds
  - Four OTB Locations:
    - Greenmount Station;
    - The Jockey Bar and Grille;
    - Long Shot’s; and
    - Riverboat on the Potomac.
  - Two commercial bingo facilities with at least 200 machines:
    - Bingo World; and
    - Rod ‘N Reel.

# Class B Competitive Licenses

- In addition to the Class B Designated Licenses, the Law authorizes SWARC to issue up to 30 competitively awarded Class B Licenses (such licenses, the “**Class B Competitive Licenses**”).
- SWARC is seeking to contact persons or businesses interested in applying for the Class B Competitive Licenses.
- Each Competitive Class B Licensee may operate sports wagering ***at a single physical facility*** owned, leased or occupied by the license holder.
- The difference between a Class B-1 and Class B-2 License is the size of the business eligible to obtain the license.

## Class B-1 License

Any entity applying for a Class B license with more than (a) 25 or more employees or (b) \$3 million in gross receipts

Application fee is \$250,000

## Class B-2 License

Any entity applying for a Class B License with less than (a) 25 employees or (b) \$3 million in gross receipts.

Application fee is \$50,000

# Candidates for Class B Competitive Licenses

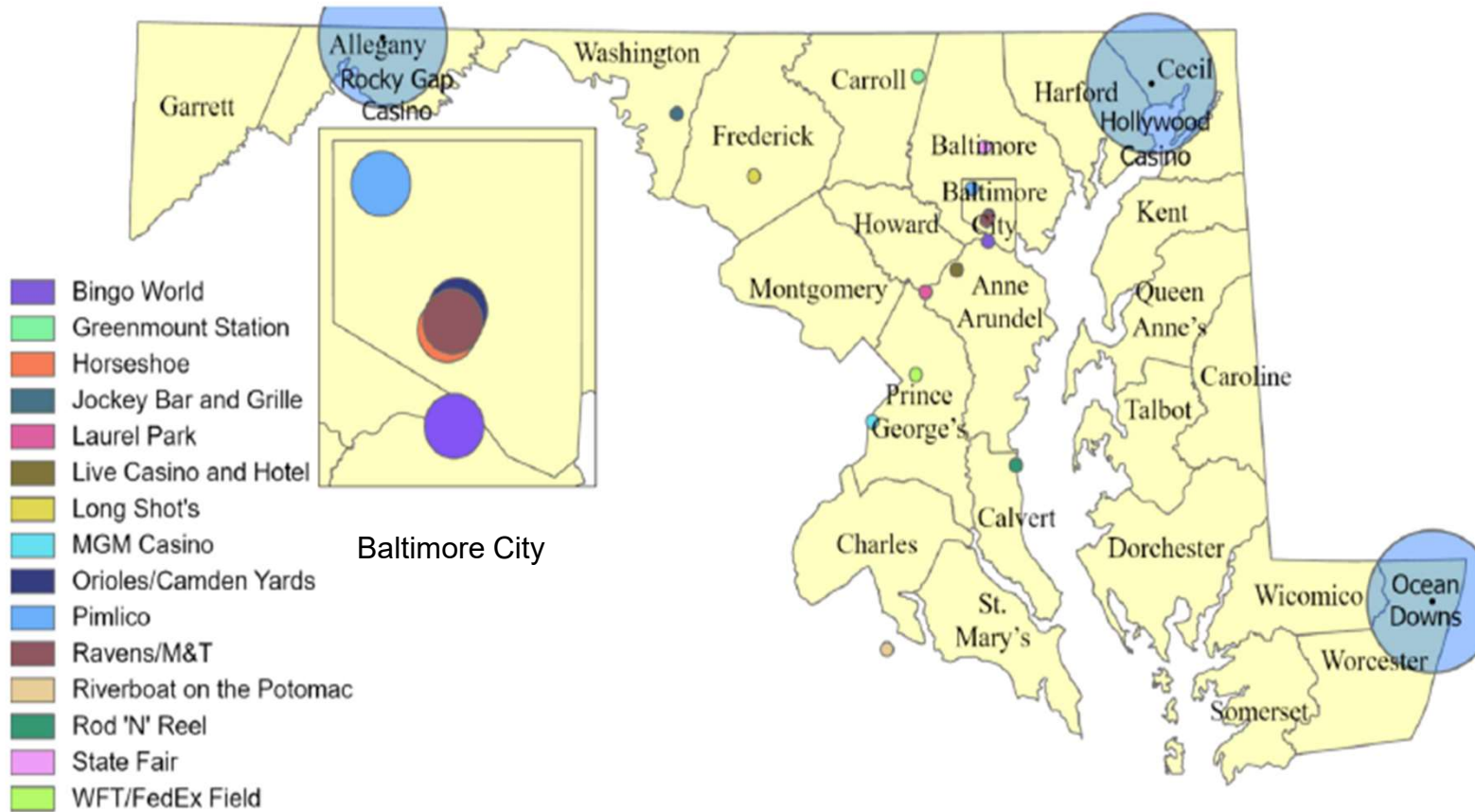
- Potential candidates for Class B Competitive Licenses include businesses in the entertainment and hospitality industry for which the addition of sports wagering to the business would provide an ancillary entertainment option with the goal of increasing patronage to the business and providing additional revenue to the core business (in the form of sports wagering revenue and increased food and beverage sales).
- For example:
  - bars,
  - restaurants, or
  - other businesses focused on providing entertainment to adults such as bowling alleys, sporting venues or golf clubs.



# Locating Class B Licensed Facilities

- In awarding the Class B Competitive Licenses, SWARC will consider as a factor (in addition to several other factors) whether an applicant for the license intends to operate sports wagering at a facility located within an “opportunity zone” or an “enterprise zone.”
  - For information concerning Maryland’s Opportunity Zones, see <https://dhcd.maryland.gov/Pages/OZ/OpportunityZones.aspx> and for a map of such zones see <https://maryland.maps.arcgis.com/apps/webappviewer/index.html?id=1cc479d2dc3948239f0c47bda8b6967e> –
  - For information concerning Maryland’s Enterprise Zones see <https://commerce.maryland.gov/fund/programs-for-businesses/enterprise-zone-tax-credit> and for a map of such zones see <https://maryland.maps.arcgis.com/apps/InformationLookup/index.html?appid=08c59e9cf06a4be99b178cfda57e65d3>
- Additionally, a Class B Competitive License may not be awarded to a facility that is located within the following *excluded* zones:
  - Within a 15-mile radius of the following casinos: Hollywood Casino, Ocean Downs Casino and Rocky Gap Casino; or
  - Within a 1.5-mile radius of any other Class A Licensee, any Class B Designated Licensee or any other Class B Competitive Licensee.
- The map on the next page shows the current “excluded zones” resulting from the Designated Licenses.

# Designated License Location Map (and related “excluded zones”)



# Mobile Licenses

- In addition to the Class B Competitive Licenses, SWARC may award **up to 60** Mobile Licenses.
- Application fee for a Mobile License is \$500,000.
- Each Mobile Licensee may operate sports wagering through a single online sports wagering website and/or application on a computer, mobile device or other interactive device.
- A holder of a Class A License or Class B License *may (but is not required to)* apply for a Mobile License.

# Licensing Process and Requirements

- SWARC is working to establish the license application process for the Class B Competitive Licenses and the Mobile Licenses.
- SWARC is responsible for awarding all sports wagering licenses and, in connection with the issuance of any licenses, must determine that the award of the license is in the public interest.
- All sports wagering licensees (whether a Class A, Class B or Mobile Licensee) must be vetted by the Maryland Lottery and Gaming Control Commission (“**MLGCC**”). This means that all officers, directors, key employees and owners of a licensee are subject to extensive background investigations conducted by MLGCC. Also, all employees involved in sports wagering operations must hold valid sports wagering licenses issued by MLGCC.
- Upon being selected by SWARC and vetted by MLGCC, a sports wagering license may be awarded by SWARC and issued by MLGCC.
- All sports wagering operations conducted by a sports wagering licensee are regulated by MLGCC.

# MLGCC Regulation

- Under the Law, with limited exceptions, MLGCC must regulate sports wagering to the same extent that it regulates video lottery terminals and table games operating in the State.
- Among other things, an applicant for a sports wagering license (whether a Class A, Class B or Mobile License) must establish by clear and convincing evidence that it has:
  - sufficient business ability and experience to operate a sports wagering business (either by itself or by engaging an experienced sports wagering operator to conduct these operations on its behalf);
  - financial stability, integrity and responsibility, including the payment of a non-refundable application fee and posting of a bond to secure future obligations (established in MLGCC's regulations);
  - good character, honesty and integrity; and
  - entered into a labor peace agreement with each labor organization that is actively engaged in representing or attempting to represent sports wagering industry workers in the State.
- On an on-going basis, following the award of the license, the licensee must comply with MLGCC's regulations including compliance with internal control standards, security and surveillance requirements, recordkeeping and accounting controls (including delivery of audited financial statements) and other regulations. (MLGCC's current regulations are available at:  
[http://www.dsd.state.md.us/COMAR/subtitle\\_chapters/36\\_Chapters.aspx#Subtitle10](http://www.dsd.state.md.us/COMAR/subtitle_chapters/36_Chapters.aspx#Subtitle10)).

# Overview of Compliance Costs

The sports wagering industry is heavily-regulated. Accordingly, a sports wagering applicant/licensee will need sufficient capital to satisfy compliance obligations.

Some compliance cost categories include the following:

- Non-refundable license application fees - \$250,000 for Class B-1, \$50,000 for Class B-2 and \$500,000 for Mobile Licenses. (Additionally, if the licensee engages a sports wagering facility operator, the operator must obtain a sports wagering facility operator license)
- Background investigation costs for investigations of the licensee and its principals, officers, directors, and owners
- Licensing costs for the licensee's employees
- Posting of a performance bond (\$750,000 bond for Class B-1, \$150,000 bond for Class B-2 and \$1,500,000 bond for Mobile Licenses)
- Cash reserve requirements (\$500,000 minimum cash reserve)
- Costs for surveillance and technology equipment
- Costs to comply with recordkeeping and accounting controls, including providing annual audited financial statements
- Security costs

# Sports Wagering Experience

- Persons or businesses interested in a sports wagering license, but who do not have the experience to operate a sports book, may consider engaging an experienced sports book operator to conduct the sports wagering on its behalf.
  - In this case, the engaged experienced sports book operator must also be vetted and licensed by MLGCC either as a “sports wagering facility operator” if engaged by a Class B Competitive Licensee or an “online sports wagering operator” if engaged by a Mobile Licensee.
- These types of arrangements are common in the sports wagering industry and some potential business arrangements are described on the next few pages.

# Potential Business Arrangements

Persons or businesses interested in pursuing an opportunity to become involved in Maryland's sports wagering industry may consider the following types of business arrangements:

- **Apply for a Competitive Class B License and own and operate all sports wagering operations directly**
  - In this arrangement, an applicant (e.g., presumably an owner of an existing entertainment venue who desires to take advantage of its existing customer base and hopes to increase that base by adding sports wagering as an ancillary entertainment option at the business) submits an application for either a Competitive Class B-1 or Class B-2 License (and pays the required non-refundable application fee).
  - Assuming that the applicant is found qualified by the MLGCC, satisfies the SWARC evaluation factors and a sports wagering facility license is issued, then the establishment owner/licensee employs experienced individuals (each of whom must be licensed) to operate the sports wagering business, comply with all regulatory requirements and manage all sports betting risks.
  - As a license holder, the establishment owner would comply with MLGCC regulations including posting a performance bond, maintaining the required cash reserve, periodically submitting audited financial statements and other financial reports, obtaining and installing all necessary sports betting software and surveillance equipment, and instituting adequate record keeping and internal controls for the sports wagering business.



# Potential Business Arrangements (cont.)

- **Apply for a Competitive Class B License and enter into a contractual arrangement with an experienced sports wagering facility operator to operate the licensee's facility sports book**
  - In this type of arrangement, the owner of an existing entertainment venue applies for and obtains a Competitive Class B License but, instead of operating the sportsbook itself, enters into a contractual arrangement with an experienced and licensed sports wagering facility operator, to operate the sports wagering business at the owner's facility on the owner's behalf.
  - By contracting with a sports wagering facility operator many of the responsibilities of conducting sports wagering (e.g., providing the sports wagering platform and wagering system, accepting and redeeming wagers, marketing and advertising, and other obligations) are shifted from the owner of the facility to the sports wagering facility operator in exchange for a share of the sports wagering business revenues.
  - Although in this arrangement the same compliance costs exist, in its agreement with the sports wagering facility operator, the owner may be able to negotiate for such operator to pay all or some of these costs on behalf of the owner.
  - The advantage of this arrangement is that the licensed owner of the entertainment venue still benefits from the increase in customers to its business and has the opportunity to profit from the sports wagering business but engages an experienced sports wagering operator to establish and operate that business.

# Potential Business Arrangements (cont.)

- Similar to the two previously described business arrangements, a person or business interested in applying for a Mobile License may determine to do so directly (and, as such, operate all mobile sports wagering on its own account) or, alternatively, enter into an arrangement whereby such business engages an experienced online sports wagering operator (also licensed by MLGCC) and the online sports wagering operator operates, on behalf of the Mobile Licensee, all sports wagering operations.
- If an online sports wagering operator is engaged, then the Mobile Licensee may be able to negotiate for the online sports wagering operator to pay for or share in the costs of the Mobile License fees and other compliance costs.

# **Special Considerations Relating to the Award of Class B Competitive Licenses and Mobile Licenses**

- Under the Law, in issuing the Class B Competitive Licenses and Mobile Licenses, SWARC:
  - actively seeks to achieve racial, ethnic, and gender diversity when awarding licenses to the extent allowed by Federal and State law; and
  - encourages applicants who qualify as a minority business enterprise or who are small, minority-, or women-owned business entity to apply for sports wagering licenses made available under the Law.

# Sports Wagering Assistance Fund (SWAF)

- Under the Law, 5% of the license fees collected by the State from each Class A License will be used to establish the Small, Minority-Owned, Women-Owned Business Sports Wagering Assistance Fund (“**SWAF**”).
- The purpose of SWAF is to assist *small*\*, minority-owned and women-owned businesses to participate in the sports wagering industry.
- Maryland’s Department of Commerce (“**DOC**”) administers SWAF and will use the fund to provide grants or loans to small, minority-owned or women-owned businesses for the following purposes:
  - sports wagering license application assistance;
  - assistance with sports wagering operations; and
  - targeted training to support participation in the sports wagering industry.
- Priority will be given by DOC to applicants pursuing a Class B Competitive License and secondary consideration will be given to applicants pursuing a Mobile License.

# SWAF Opportunities

- The DOC has created three programs for utilization of SWAF:
  - **Sports Wagering Licensing Support and Background Check Grants**
    - Eligible grant amounts - \$800 to \$25,000, but not to exceed 50% of the License or published final Background Check fees paid by the applicant (net of any refunds of such fees).
  - **Sports Wagering Operating Support Grant up to \$50,000**
    - Reimbursable grant of up to 50% of eligible operating costs. Funding can be used to support eligible expenses related to establishing a sports wagering business (e.g., expenses relating to software, equipment, payment processing, IT support, accounting and audit services, and other expenses approved by DOC).
  - **Sports Wagering Training Support Grant**
    - Up to \$50,000 reimbursable grant of up to 50% of eligible training costs (e.g., types of training may include rules for sports wagering, sports wagering software platforms, sports wagering and integrity certification, security technology relating to sports wagering, conference registration fees related to the sports wagering industry and other training DOC deems appropriate and related to the sports wagering industry)
- For additional information concerning SWAF and eligibility requirements for SWAF programs, contact Ms. Darla Garrett, [darla.garrett@Maryland.gov](mailto:darla.garrett@Maryland.gov).

# Next Steps

Persons and businesses interested in obtaining more information concerning this opportunity are encouraged to contact:

- General Information on the application process: [swarc@mlis.state.md.us](mailto:swarc@mlis.state.md.us)
- Licensing Information: [Philip.Metz@Maryland.gov](mailto:Philip.Metz@Maryland.gov)
- Regulatory Questions: [Michael.Eaton@Maryland.gov](mailto:Michael.Eaton@Maryland.gov)