

# ACT NO. 6419

BILL NO. 24-0046

## TWENTY-FOURTH LEGISLATURE OF THE VIRGIN ISLANDS OF THE UNITED STATES

Regular Session

2001

To enact the "United States Virgin Islands Technology Initiative", to amend title 32, chapter 21, Virgin Islands Code, to provide for a new Article XIV to license internet gaming and internet gambling in the Territory; to further amend title 32, section 246, Virgin Islands Code to Provide for an internet lottery; and for other purposes related thereto

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**WHEREAS**, it is the intent of the Legislature of the Virgin Islands to enhance the technological capability within the Virgin Islands and enable access to technology for the people of the Territory; and

**WHEREAS**, the Legislature further desires to improve student capability and opportunities for Virgin Islands youth, as well as retain talented personnel within the Territory; and

**WHEREAS**, tourism is the largest employer within the United States Virgin Islands and it is the intent of the Legislature to increase employment in tourism through permanent high technology positions; and

**WHEREAS**, the Government of the Virgin Islands recently enacted the Virgin Islands Casino and Resort Control Act of 1995, to enhance tourism and increase revenues to the Territory; and

**WHEREAS**, in late December of last year, the Legislature of the Virgin Islands passed but the Governor vetoed the Virgin Islands Technology Enterprise Act of 2000, to try and standardize electronic commerce and provide for the development and training of the Virgin Islands community; and

**WHEREAS**, gaming on the Internet is a new phenomenon with revenues projected to increase substantially in the future; and

**WHEREAS**, it is in the public interest that the Government of the Virgin Islands attain a legally sustainable and stable framework for its operation of an Internet gaming and Internet gambling portal that protects the credibility of the Government, together with the rights of the player and the investment of the licensees and the Master Franchisor; and

**WHEREAS**, the development of a regulatory system of integrity will become the model for Internet gaming and Internet gambling regulation throughout the United States; and

**WHEREAS**, it is essential that the Government of the Virgin Islands ensure stability in licensing and regulation in order to attract capital investment to the Territory and develop human resources for business expansion throughout the Virgin Islands; and

**WHEREAS**, instituting Internet gaming and Internet gambling in the Territory will provide the Government with significant and direly needed revenues; Now, Therefore,

**BE IT ENACTED** by the Legislature of the Virgin Islands:

**SECTION 1.** This Act may be cited and shall be known as "The Virgin Islands Technology Initiative".

**SECTION 2.** Title 32, chapter 21, Virgin Islands Code, is amended by adding a new Article XIV thereto to read:

**"Article XIV. Virgin Islands Internet Gaming and Internet Gambling Act**

**Subarticle A. General**

**§601. Short title**

This Article may be cited and shall be known as the "Virgin Islands Internet Gaming and Internet Gambling Act".

**§602. Legislative intent**

It is the purpose of this Article to make provision for the protection of persons participating in approved Internet gaming and approved Internet gambling by the licensing and regulation of such services.

### §603. Definitions

As used in this Article, the words and terms have the meanings ascribed unless a different meaning clearly appears in the context:

(a) "Approved Game" or "Approved Gambling Game" means an Internet game or Internet gambling that a licensee is authorized to conduct pursuant to this Article; provided, however, if the Commission determines that a game or gambling is contrary to the public interest, the Chairman by written notice to the Master Franchisor may declare the game or gambling to be prohibited.

(b) "Bank" means an institution organized under federal, state or territorial law which:

(1) accepts demand deposits or deposits that the depositor may use for payment to third parties and engages in the business of making commercial loans; or

(2) engages in credit card operations, does not accept demand deposits or deposits that the depositor may use for payments to third parties, does not accept a savings or time deposit less than \$100,000, maintains only one office that accepts deposits, and does not engage in the business of making consumer loans.

(c) "Commission" means the Casino Control Commission established pursuant to the provisions of title 32, Virgin Islands Code.

(d) "Computer" means an electronic device which by means of stored instruction and information performs rapid, often complex, calculations or compiles, correlates and selects data.

(e) "Computer Server" means a computer that is capable of communicating with another computer or device; and providing to that other computer or device:

- (1) access to a database;
- (2) transaction based services;
- (3) software applications; or
- (4) interactive services

(f) "Control" means:

- (1) ownership of, or the power to vote, directly or indirectly, at least fifteen percent (15%) of a class of voting securities or voting interests of a licensee or person in control of a licensee;

(2) power to elect a majority of executive officers, managers, directors, trustees, or other persons exercising managerial authority of a licensee or person in control of a licensee; or

(3) the power to exercise directly or indirectly, a controlling influence over the management or policies of a licensee or person in control of a licensee, if the Commission, after notice and opportunity for hearing, so determines.

(g) "Control System" means any system of internal controls and administrative and accounting procedures for the operation of an approved Internet game or approved Internet gambling by a licensee.

(h) "Court" means the Territorial Court of the Virgin Islands.

(i) "Division" means the Division of Gaming Enforcement as established under this chapter.

(j) "Employ" means to engage the services or labor of someone or a corporation, business, partnership, or company for compensation.

(k) "Employee" in relation to a licensee, means a person employed by the licensee in functions related to the conduct of approved Internet games or approved Internet gambling.

(l) "Executive Officer" means a president, chairperson of the executive committee, chief financial officer, principal employee, responsible individual, or other individual who performs similar functions.

(m) "Gaming Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form, including a document, about the operation or an approved Internet game or approved Internet gambling conducted by a licensee pursuant to a license issued in accordance with this Article.

(n) "Gross Internet Gaming Revenue" or "Gross Internet Gambling Revenue" means the total of all sums, including checks received by the Licensee under this Article actually received by a licensee from gaming operations, less only the total of all sums paid out as winnings to players paid out expenses, and a deduction for uncollectible gaming receivables. The deduction for uncollectible gaming receivables shall not exceed the lesser of: (1) a reasonable provision for uncollectible player checks received from gaming operations; or (2) four percent (4%) of the total of all sums including checks, whether collected or not, less than the amount paid out as winnings to players.

(o) "Hardware" means any computer, computer server, or other device whether electronic, electrical or mechanical required for or used in approved Internet gaming or approved Internet gambling operations.

(p) "Identity" in relation to a person means name, physical, mailing and e-mail address, date of birth or a prescribed aspect of the person's identity.

(q) "Internet Funds" are funds that are transferred through a third party or peer-to-peer and which the payee can access and retrieve those funds for debt or credit to an account.

(r) "Internet Game" means a scheme, arrangement, or plan comprised of prize, chance, and consideration that is approved and authorized by the Commission.

(s) "Internet Gambling" means the dealing, operating, carrying on, conducting, maintaining or exposing for pay of any Internet game.

(t) "Internet Gaming Equipment" or "Internet Gambling Equipment" means a computer or other device (whether electronic, electrical, or mechanical), computer software, or another thing used, or suitable for use, in the conduct of an approved Internet game or approved Internet gambling.

(u) "License" means a license for Internet gaming or Internet gambling issued pursuant to this article.

(v) "Licensee" means the holder of a license for an Internet gaming site issued by the Commission pursuant to this Article.

(w) "Master Franchisor" means the person or entity authorized by this article to conduct the operation of approved Internet gaming or approved Internet gambling in the Virgin Islands, all shareholders, partners, members, or other owners thereof, subject to the rules and regulations promulgated by the Commission in accordance with the provisions of section 4, subsection (b) of the Master Franchise Agreement.

(x) "Outstanding," with respect to a payment instrument, means issued, awarded, or sold by or for the licensee and which has been reported as issued, awarded or sold but not yet paid by or for the licensee.

(y) "Play" means participate in an approved Internet game or approved Internet gambling conducted by a licensee.

(z) "Player" means a person who participates in an approved Internet game or approved Internet gambling conducted by a licensee.

(aa) "Random Number Generator" means a computer or computer server or software programs used to produce a selection of numbers in no particular order and with no favor

being given to any numbers that behave similar to realizations of independent, identically distributed random variables, a procedure which produces different values each time it is called simulating a random selection process that ensures the fairness of an approved Internet game or approved Internet gambling.

(bb) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(cc) "Responsible individual" means an individual who programs or customizes the hardware platform, operating system and application software that can affect game play or has access to sensitive areas or who, is employed by a licensee and has principal, active, managerial authority, empowered to make discretionary decisions over the provision of approved, internet gaming and approved Internet gambling by the licensee in the Virgin Islands.

(dd) "Software" means the assembled, compiled or engineered intellectual information in a program and includes procedures and associated documentation concerned with the operation of a computer, computer program, or computer network.

(ee) "Unsafe or unsound practice" means a practice or conduct by a person licensed to engage in approved Internet gaming or approved Internet gambling which creates the likelihood of insolvency or material loss dissipation of the licensee's assets beyond that prescribed by law, or otherwise materially prejudices the interests of its players.

(ff) "Virgin Islands" means the United States Virgin Islands.

(gg) "Wager" means an amount a player puts at risk in playing an approved Internet game or approved Internet gambling conducted by a licensee.

#### **§604. Authority of the Commission**

Consistent with this chapter and in accordance with the provisions of section 421(a), (b), (c) and (d), of this title, the Commission shall promulgate such rules and regulations as may be necessary to effectuate the purposes of this Article. Internet Gaming shall not commence until the Commission has adopted rules and regulations under this Article and has determined that:

- (a) Internet gaming can be operated in compliance with all applicable laws;
- (b) Internet gaming systems are secure and reliable, and provide reasonable assurance that players will be of lawful age and communicating only for jurisdictions where it is lawful to make such communications;
- (c) Adoption of such regulations is consistent with the public policy of the Virgin Islands to foster the stability and success of Internet gaming; and

(d) The rules and regulations, under this section, shall be promulgated no more than one (1) year after the enactment date of this Article.

#### **§605. License required**

(a) Unless first obtaining a license pursuant to subarticle B of this Article, a person or entity shall not:

(1) conduct an Internet gaming or Internet gambling business at or from a place in the Virgin Islands;

(2) own, control, or operate a computer server in the Virgin Islands that enables an Internet game or Internet gambling to be played;

(3) offer, advertise, solicit in the Virgin Islands the playing of Internet games or Internet gambling;

(4) seek to obtain a commercial advantage from the use of premises other than those of the Master Franchisor in the Virgin Islands for playing Internet games or Internet gambling;

(5) hold themselves out as a licensee; or

(6) provide Internet gaming or Internet gambling equipment or services to the Master Franchisor and/or the licensee.

(b) A license is not transferable or assignable.

#### **§606. Merger of Approved Licensees and Casino Operations**

An approved Internet gaming or approved Internet gambling licensee may consolidate or merge with a casino operation in the Virgin Islands as provided in this chapter with the approval of the Commission.

#### **Subarticle B. Licensing**

#### **§607. Application for License**

(a) A person applying for a license pursuant to this Article must do so in writing, under oath, and in a form prescribed by the Commission. The application must state or contain:

(1) the legal name, residential and business addresses of the applicant and any fictitious or trade name used by the applicant in the conduct of its business;

(2) the applicant's civil litigation for the last five (5) years;

(3) a description of any gaming business previously or presently engaged in by the applicant;

(4) a copy of any software and an inventory of computer hardware to be utilized by the applicant in the proposed Internet gaming or Internet gambling business;

(5) the name and address of any clearing financial institutions through which the applicant's prizes will be payable through, if any;

(6) a document confirming that the requirements for security and net worth as set forth in sections 612 and 615, of this article, have been or will be satisfied;

(7) a document confirming that the applicant acknowledges that the laws of the Virgin Islands and the United States, as applicable, shall apply to the conduct of its operations and that the applicant shall comply with all rules and regulations promulgated by the Commission as applicable to the conduct of approved Internet games or approved Internet gambling and that the applicant agrees to the location of its operations within the central data bank operated by the Master Franchisor; and

(8) such other information the Commission may reasonably require with respect to the applicant.

(b) If an applicant is a corporation, the applicant shall also provide:

(1) the date of the applicant's incorporation and the jurisdiction of incorporation;

(2) a certificate of good standing from the jurisdiction in which the applicant is incorporated;

(3) a description of the corporate structure of the applicant, including any parent or subsidiary of the applicant, and whether any parent or subsidiary is publicly traded on a securities exchange;

(4) the legal and any fictitious name, business and residential addresses, and employment, for the past five years, of each executive officer, director, principal employee, and controlling persons of the applicant;

(5) civil litigation and criminal convictions for the past ten years of each executive officer, director, principal employee, and controlling persons of the applicant;

(6) a copy of the applicant's audited financial statements for the most recent fiscal year and, if available, for the next preceding two years;



(7) a copy of the applicant's unconsolidated financial statements for the current year, whether audited or not, and, if available, for the next preceding two (2) years;

(8) if the applicant is a publicly traded corporation, a copy of the most recent 10-K report filed with the United States Securities and Exchange Commission;

(9) if the applicant is a wholly owned subsidiary of:

(A) a corporation publicly traded in the United States, a copy of the articles of incorporation and all amendments, audited financial statements for the parent corporation for the current year or the parent corporation's most recent 10K reports filed with the United States Securities and Exchange Commission;

(B) a corporation publicly traded outside of the United States, similar documentation filed with the parent corporation's non-United States regulator; and

(10) such other information the Commission reasonably requires.

(c) If the applicant is not a corporation, the applicant shall also provide:

(1) evidence that the applicant is qualified to do business in the Virgin Islands;

(2) the legal and any fictitious name, business and residential addresses, personal financial statements, and employment for the last five years, for each controlling person that is an individual and each responsible individual of the applicant;

(3) civil litigation and criminal convictions, for the last ten years, of each controlling person that is an individual and each responsible individual of the applicant;

(4) a copy of the applicant's audited financial statements for the current year, and, if available, for the next preceding two years; and

(5) such other information as the Commission reasonably requires.

(d) A nonrefundable application fee of \$10,000 and for the first two (2) years after the commencement of Internet Gaming and Internet Gambling, a license fee of \$25,000 must accompany an application for a license under this Article. Thereafter, the license fee shall be established by the Rules and Regulations promulgated by the Commission. The applicant for a license shall also be responsible for the total costs associated with the investigation of the applicant in addition to the application fee and license fee required by this subsection.

(e) The license fee shall be refunded if the application is denied.

(f) The Commission may waive a requirement of subsections (a) through (c) of this section or permit an applicant to submit substituted information in lieu of the required information.

(g) A license is required, under the provisions of this section, for every shareholder owning directly or indirectly over fifteen percent (15%) of any class of voting Securities, and all executive officers, all directors, principal programmers and any other persons as the Commission or the Division may determine to. However, the Commission shall establish the license fees for the issuance of a license under the provisions of this subsection.

#### **§608. Security**

(a) A surety bond, or other similar security acceptable to the Commission, in an amount of not less than \$100,000 must accompany an application for a license.

(b) Notwithstanding subsection (a), the Commission, may increase the amount of security required based upon the potential outstanding liability of a licensee for jackpots, player deposits, and money held in trust.

(c) A security must be in a form satisfactory to the Commission and run to the Government of the Virgin Islands for the benefit of any claimant against the licensee to secure the faithful performance of the obligations of the licensee with respect to payment of prizes and monies held on account for players.

(d) The aggregate liability on a surety bond may not exceed the principal sum of the bond. A claimant against a licensee may maintain an action directly on the bond, or the Commission may maintain an action on behalf of the claimant. The bond must run to the Government of the Virgin Islands for the benefit of the Commission or any person injured by a wrongful act, omission, default, fraud, or misrepresentation of a licensee or employee of the licensee in the conduct of its business as a licensee. Only one bond is required of a licensee, irrespective of the number of executive officers, directors, principal employees or other employees of the licensee.

(e) A surety bond must remain in effect until cancellation, which may occur only after 30 days' written notice to the Commission of the intended cancellation.

(f) A surety bond must cover claims effective for as long as the Commission specifies, but at least five years after the licensee ceases to be an approved Internet gaming or approved Internet gambling business in the Virgin Islands. However, the Commission may permit the amount of security to be reduced or eliminated before that time to the extent that the amount of the licensee's prizes outstanding are reduced. The Commission may permit a licensee to substitute another form of security acceptable to the Commission for the security effective at the time the licensee ceases to be an approved Internet gaming or Internet gambling business in the Virgin Islands.

**§609. Issuance of License**

(a) Upon the filing of an application for a license, under the provisions of this Article and such supplemental information as the Commission may require, the Commission shall request the Division to conduct such investigation into the qualification of the applicant, and the Commission shall conduct a hearing thereon concerning the qualifications of the applicant. The Commission may issue a license to an applicant under this Article if it finds that all of the following conditions have been fulfilled:

(1) The applicant has complied with sections 607 and 608 of this Article;

(2) The competence, experience, character, and general fitness of the executive officers, directors, principal employees and controlling persons indicate that it is in the interest of the public to permit the applicant to conduct approved Internet games and approved Internet gambling pursuant to this Article; and

(3) The applicant has paid the requisite application fee, franchise fees, license fees and the total costs of the investigation; and

(4) The applicant has executed an operations contract with the Master Franchisor.

(b) Without limiting the matters to which conditions may relate, the conditions of a license may relate to:

(1) any matter for which provision is made in this Article, but must not be inconsistent with the provisions of this Article;

(2) approval of Internet games, Internet gambling and random number generator.

(3) approval of rules of Internet games and Internet gambling;

(4) approval of executive officers and responsible individuals;

(5) approval of internal control system, including the keeping of records, holding of funds on behalf of players, financial statements, reports, accounts and prizes; and

(6) approval of computer equipment including, but not limited to, computer servers and associated processing devices.

(c) An applicant whose application is denied by the Commission pursuant to this Article may request a hearing before the Commission, within thirty (30) days after receipt of the notice of the denial.

**§610. Renewal of License**

(a) A licensee under this Article shall pay an annual license fee in accordance with the provisions of section 607(d) of this Article and an annual renewal fee of \$10,000 thirty (30) days before the anniversary of the issuance of the license or, if that date is not a business day, on the first business day after that date. The Master Franchisor shall report all franchise fees collected under this section to the Commission not more than thirty (30) days after such fees are received by the Master Franchisor. The Commission in its discretion may require the licensee to undergo an investigation prior to the renewal of the license. The licensee shall be responsible for the total costs associated with the investigation.

(b) A licensee under this Article shall submit with the renewal and processing fee a report, in a form prescribed by the Commission. The renewal report shall state or contain:

(1) a copy of the licensee's most recent annual financial statement or, if the licensee is a wholly owned subsidiary of another corporation, the most recent consolidated annual financial statement of the parent corporation or the licensee's most recent consolidated annual financial statement;

(2) the number prizes issued by the licensee that have not been previously included on a renewal report, the monetary amount of those prizes, and the monetary amount of prizes currently outstanding;

(3) a description of each material change in information submitted by the licensee in its original license application which has not been previously reported to the Commission on any required report;

(4) a list of the licensee's permissible investments and a certification that the licensee continues to maintain permissible investments according to the requirements set forth in sections 661 and 662 of this title; and

(5) proof that the licensee continues to maintain adequate security as required by section 608 of this title.

(c) If a licensee fails to file a renewal report or to pay its renewal fee by the renewal date, and has not been granted an extension of time to do so by the Commission, its license is suspended on the renewal date and all approved Internet games or approved Internet gambling shall cease. The licensee has 30 days after its license is suspended in which to file a renewal report and to pay the annual license fee in accordance with the provisions of section 607(d) of this Article and an annual renewal fee of \$10,000, plus \$500 for each day thereafter that the Commission does not receive the renewal form and application.

### **§611. Reserves**

In order to assure the licensee's ability to meet its obligations to players, the Commission shall establish the necessary amounts of funds to be segregated in a manner that they are bankruptcy remote and accessible by the Commission to pay players' claims.

## **Subarticle C. Returns to Players, Supervision, Charges and Tax**

### **§612. Returns to players**

The Commission shall ensure that approved Internet games and approved Internet gambling of each licensee is audited and certified by a licensed auditor approved by the Commission to ensure that the payout to players is commensurate with the odds of the game played. The licensee shall be responsible for the total costs associated with this audit.

### **§613. Gaming and gambling tax; distribution of fees**

(a) Notwithstanding the provisions of Article XI of this chapter, and in lieu of taxes and fees imposed pursuant to such Article, the Master Franchisor and the licensees shall pay taxes to the Casino Revenue Fund on gross Internet gaming and Internet gambling revenue in accordance with the provisions of subsection (b) herein. Notwithstanding any other law, the Master Franchisor, the licensees and any owners thereof, shall not be required to pay any other taxes and fees to the United States Virgin Islands, including but without limitation those imposed pursuant to The Internal Revenue Code of 1986, as applicable to the Virgin Islands, and to titles 13 and 33 of this Code.

(b) The Master Franchisors and the Licensees shall be subject to an annual tax on gross Internet gaming revenues and gross Internet gambling revenues, as defined in section 603 of this chapter, as follows:

- (i) Six (6%) percent per annum during the first two years of operation, and
- (ii) Eight (8%) percent per annum during the third and fourth years of operation, and
- (iii) Ten (10%) percent per annum for each succeeding year which annual tax on licensees shall be reduced if the licensed operation is sold or transferred to new parties."

(c) Application fees, license fees, and renewal fees imposed pursuant to section 607, subsection (d) and section 610, subsection (a) of this Article, shall be covered into the Casino Control Fund established pursuant to section 514(d) and (e) of this title.

(d) The Master Franchisor shall report to the Commission quarterly all revenue categories received and generated pursuant to this Article.

#### **Subarticle D. Operation and Compliance Requirements**

##### **§614. Player registration and acceptance of wagers**

(a) A licensee shall not permit a person to play an approved Internet game or approved Internet gambling unless the person is registered with the licensee as a player and the person's identity has been authenticated in accordance with the conditions of the license.

(b) A licensee shall not register a person as a player who is:

(1) under 21 years of age; or

(2) a resident of a jurisdiction where Internet gaming or Internet gambling is prohibited.

(c) A licensee shall not accept a wager from a player in an approved Internet game or approved Internet gambling unless:

(1) the player is registered; and

(2) the funds necessary to cover the amount of the wager are held by the Master Franchisor on behalf of the player.

(d) A registered player upon playing an approved Internet game or approved Internet gambling conducted by a licensee shall be deemed to subject himself to the jurisdiction of the Virgin Islands.

(e) A licensee or employee of a licensee shall not participate as a player in an approved Internet game or approved Internet gambling conducted by any licensee.

(f) The Master Franchisor or an employee of the Master Franchisor shall not participate as a player in an approved Internet game or approved Internet gambling conducted by any licensee.

(g) The Commission shall establish standards and procedures for player acceptance under the provisions of this section. The standards and procedures authorized under this subsection shall include but not be limited to software and hardware requirements, and internal control procedures that a Licensee shall employ to identify players and their physical location.

**§615. Players funds**

(a) A licensee shall, at the request of a registered player or the personal representative of the registered player, remit funds of the player held by the licensee on behalf of the player as directed by the player no later than two (2) business days after the request is received.

(b) A licensee shall not have recourse to funds held on behalf of a player except as follows:

(1) To debit the funds of a player for a wager made by the player or an amount the player indicates the player wants to wager in the course of an approved Internet game or approved Internet gambling the player is playing or is about to play;

(2) To remit funds to the player at the player's request; or

(3) As otherwise authorized pursuant to this Article.

**§616. Licensee not to provide credit**

A licensee shall not provide credit to a player. Players shall be required to deposit money prior to playing any approved Internet game or approved Internet gambling by payment in advance, credit or debit card, wire transfer, check, money order, or Internet funds.

**§617. Inactive players**

If no transaction has been recorded on behalf of a player for a period of one (1) year, the licensee shall remit any funds held on behalf of the player to the player or, if the player cannot be located, such funds shall be paid into the Virgin Islands Education Initiative Fund established pursuant to title 33, section 3093 of this Code.

**§618. Limitation on wagers**

(a) A registered player may, by notice to a licensee, set a limit on the amount the player may wager.

(b) A player who has set a limit pursuant to this Section may amend or revoke the limit on wagers by written notice give to the licensee.

(c) A notice increasing or revoking the limit shall not take effect unless:

(1) Seven (7) calendar days have passed since the licensee received the notice;  
and

(2) The player has not notified the licensee of an intention to withdraw the notice.

(d) A notice reducing the limit has effect on its receipt by the licensee.

(e) A licensee shall not accept a wager from a player contrary to a limit set for the player pursuant to this section.

#### **§619. Self-exclusion order.**

(a) If a person or player gives written notice to a licensee to the effect that the person or player is not to be permitted to play an approved Internet game or approved Internet gambling conducted by the licensee, the licensee shall:

(1) Forward a copy of the notice to Commission and the Master Franchisor; and

(2) Not permit the person or player to play an approved Internet game or approved Internet gambling conducted by the licensee unless the notice is revoked in accordance with this section.

(b) A person or player may revoke a notice given pursuant to subsection (a) of this section by giving notice to that effect to the licensee; provided that such revocation shall not take effect unless:

(1) Seven (7) calendar days have passed since the person or player gave the notice; and

(2) The player has not withdrawn the notice.

(c) A licensee shall not accept a wager from a person or player who has given notice pursuant to subsection (a) of this section.

#### **§620. Claims for prizes**

(a) If a claim for a prize in an approved Internet game or approved Internet gambling is made to a licensee within one (1) year after the end of the approved Internet game or approved Internet gambling or, the licensee after immediate notification to the Commission shall:

(1) immediately attempt to resolve the claim; and

(2) if the licensee is not able to resolve the claim, by notice in a record given to the claimant, promptly inform the claimant of the licensee's decision on the claim.

(b) If the claim is not resolved within ten (10) days of receiving the notice, the claimant may request the Commission to review the licensee's decision on the claim, or if the claimant has not received a claim result notice, to resolve the claim.



(c) A request to the Commission under subsection (b) of this section:

(1) Must be in the approved form; and

(2) If the claimant received a claim result notice, must be made within five (5) business days after receiving the notice.

(d) If a request is made to the Commission, the Commission may carry out investigations the Commission considers necessary to resolve matters in dispute.

(e) If a prize is not claimed within one (1) year after the end of the approved Internet game or approved Internet gambling in which the prize was won, the licensee shall cover the amount of the prize into the Virgin Islands Education Initiative Fund established pursuant to title 33, section 3093 of this Code.

#### **§621. Authority to withhold prizes**

(a) If a licensee has reason to believe that the result of an approved Internet game or approved Internet gambling has been affected by an illegal activity or malfunction of equipment, the licensee may withhold a prize in the approved Internet game or approved Internet gambling.

(b) If a licensee withholds a prize pursuant to this section, the licensee shall:

(1) immediately inform the Commission and the player of the circumstances of the incident; and

(2) not conduct a further approved Internet game or approved Internet gambling if a recurrence of the illegality or malfunction is likely.

(c) After investigating the incident, the Commission may, by notice in writing to the licensee and the player:

(1) direct the licensee to pay the prize; or

(2) confirm the licensee's decision to withhold the prize, but direct the licensee to refund amounts wagered in the approved Internet game or approved Internet gambling.

(d) The licensee shall comply with the directive of the Commission pursuant to subsection (c) of this section.

#### **§622. Complaints**

(a) A licensee shall investigate:

(1) a complaint made to the licensee by a person about:

(A) the conduct of an approved Internet game or approved Internet gambling by the licensee; or

(B) the conduct of an agent of the licensee in operations related to an approved Internet game or approved Internet gambling; or

(C) a complaint referred to the licensee by the Commission or the Master Franchisor under subsection (c) of this section.

(b) Within ten (10) calendar days after the complaint is received by or referred to the licensee, the licensee shall give notice in writing of the result of the inquiry to the complainant, the Commission and the Master Franchisor.

(c) If a complaint is made to the Commission or the Master Franchisor about the conduct of an approved Internet game or approved Internet gambling, or the conduct of an agent in operations related to an approved Internet game or approved Internet gambling, the Commission shall promptly investigate the complaint.

(d) The Commission shall promptly notify the complainant in writing of the result of the Commission's inquiry.

(e) To be considered, a complaint shall:

(1) be in writing;

(2) state the complainant's name, physical, and e-mail address; and

(3) give appropriate details of the complaint.

#### **Subarticle E. Examinations, Reports and Other Records**

##### **§623. Authority to Conduct Examinations**

(a) The Commission shall conduct examinations of a licensee with or without notice when deemed appropriate by the Commission.

(b) The Commission shall examine the licensee without having given notice, if the Commission has reason to believe that the licensee is engaging in an unsafe or unsound practice or has violated or is violating this chapter or a rule or regulation adopted or an order issued pursuant to this chapter.

(c) If the Commission concludes that an on-site or remote examination, or both an on-site and remote examination under subsection (b), of this section, are necessary, the licensee shall pay all costs of the examination reasonably incurred by the Commission.

(d) Information obtained during an examination under this Subarticle may be disclosed only as provided in section 645 of this title.

#### **§624. Reports**

(a) A licensee shall file with the Commission and the Master Franchisor within fifteen (15) business days any changes in information provided in a licensee's application and any other changes prescribed by the Commission.

(b) A licensee shall file with the Commission and the Master Franchisor, within ten (10) days after the end of each fiscal quarter, a current list of all employees, consultants, and all other persons involved in the operations. The licensee must state or include its physical, mailing, and e-mail address.

(c) A licensee shall file a report with the Commission within one (1) business day after the licensee has reason to know of the occurrence of any of the following events:

(1) the filing of a petition under the United States Bankruptcy Code for bankruptcy or reorganization;

(2) the filing of a petition for receivership;

(3) the commencement of a proceeding to revoke or suspend its license in any jurisdiction;

(4) the cancellation or other impairment of the licensee's bond or other security;

(5) an indictment, prosecution, or conviction of the licensee or of an executive officer, director, principal employee or controlling person for a felony.

(6) additional information established by the Commission in its rules and regulations.

#### **§625. Change of Control**

(a) A person or group of persons that proposes to acquire control shall give written notice to the Commission and the Master Franchisor and request approval of the acquisition and also submit a nonrefundable fee of \$10,000 to the Commission or the cost of the investigation whichever is greater.

(b) After review of the request for approval under subsection (a) of this section, the Commission may require the licensee to provide additional information concerning the proposed controlling person. The additional information must be limited to the same types required of the licensee or controlling person as part of its original license or renewal application.

(c) The Commission shall approve a request for change of control under subsection (a) if, after investigation, the Commission determines that the person or group of persons requesting approval has the competence, experience, character, and general fitness to operate the licensee or controlling person in a lawful and proper manner and that the interests of the public will not be jeopardized by the change of control.

(d) The following persons or transactions are exempt from the requirements of subsection (a) but must still notify the Commission and the Master Franchisor of the change of control:

(1) a person that acts as a proxy for the sole purpose of voting at a designated meeting of the security holders or holders of voting interests of a licensee or controlling person of a licensee;

(2) a person that acquires control of a licensee or controlling person of a licensee by devise or descent;

(3) a person that acquires control as a personal representative, custodian, guardian, conservator, or trustee, or as an officer appointed by a court of competent jurisdiction or by operation of law; and

(4) a person or transaction that the Commission by rule or order exempts in the public interest.

(e) Subsection (a) of this section does not apply to public offerings of securities.

(f) Before filing a request for approval to acquire control, a person may request in writing a determination from the Commission as to whether the person would be considered a controlling person upon consummation of a proposed transaction. If the Commission determines that the person would not be a controlling person, the Commission shall enter an order to that effect and the proposed person and transaction is not subject to the requirements of subsections (a) through (c) of this section.

#### **§626. Books, accounts, documents and other records**

(a) A licensee shall maintain books, accounts, documents, and other records necessary to determine the licensee's compliance with this Article. A licensee shall maintain the following for at least three (3) years after the record is created:

(1) a record of each wager accepted;

(2) a record of each prize paid;

(3) a general ledger posted at least monthly containing all assets, liability, capital, income and expense accounts;

- (4) bank statements and bank reconciliation records;
- (5) records of outstanding prizes and monies held on behalf of players;
- (6) records of each prize paid within the three-year period; and
- (7) any other books, accounts, documents, and other records that may be prescribed by the Commission by rule or regulation.

(b) The items specified in subsection (a) may be maintained in paper, photographic, electronic, or similar permanent medium.

(c) Books, accounts, documents, and other records may be maintained outside of the Virgin Islands if they are made accessible to the Commission on seven (7) business days notice that is set in a record.

(d) All books, accounts, documents and records maintained by the licensee as required in subsections (a) through (c) of this section, shall be open to inspection by the Commission pursuant to section 628 of this chapter.

#### **§627. Money laundering reports**

A licensee and the Master Franchisor shall file with the appropriate Federal Agencies and the Division of Gaming Enforcement of the Virgin Islands Department of Justice all reports required by federal currency reporting, record keeping, and suspicious transaction reporting requirements as set forth in 31 U.S.C Section 5311, 31 C.F.R. Part 103 as amended, and other federal and territorial laws pertaining to money laundering.

#### **§628. Confidentiality of records**

(a) Financial information not normally available to the public that is submitted on a confidential basis by an applicant or a licensee to comply with licensing or other regulatory functions of the Commission is confidential.

(b) Nothing in this section prohibits the Commission from releasing to the public a list of persons licensed under this Article or from releasing aggregate financial data on licensees.

### **Subarticle F. Permissible Investments**

#### **§629. Permissible investments**

(a) A licensee shall maintain at all times permissible investments that have a market value computed in accordance with generally accepted accounting principles of not less than the aggregate amount of all of its outstanding prizes and monies held on account for players by the licensee.

(b) The Commission with respect to any licensees, may limit the extent to which a type of investment within a class of permissible investments may be considered a permissible investment, except for money and certificates of deposit issued by a bank. The Commission by rule or regulation may prescribe or by order allow other types of investments that the Commission determines to have a safety substantially equivalent to other permissible investments.

(c) Permissible investments, even if commingled with other assets of the licensee, are held in trust for the benefit of the players and their personal representatives in the event of bankruptcy or receivership of the licensee.

### **§630. Types of permissible investments**

(a) Except to the extent otherwise limited by the Commission pursuant to section 629 of this Article, the following investments are permissible under section 629:

(1) cash, a certificate of deposit, or senior debt obligation of an insured depository institution, as defined in section 3 of the Federal Deposit Insurance Act 12 U.S.C. §1813;

(2) a banker's acceptance or bill of exchange that is eligible for purchase upon endorsement by a member bank of the Federal Reserve System and is eligible for purchase by a Federal Reserve Bank;

(3) an investment bearing a rating of one of the three highest grades as defined by a nationally recognized organization that rates securities;

(4) an investment security that is an obligation of the United States or a department, agency, or instrumentality thereof; an investment in an obligation that is guaranteed fully as to principal and interest by the United States; or an investment in an obligation of a State or a governmental subdivision, agency, or instrumentality thereof;

(5) receivables that are payable to a licensee from its authorized delegates, in the ordinary course of business, pursuant to contracts which are not past due or doubtful of collection if the aggregate amount of investments in receivables under this paragraph does not exceed twenty percent (20%) of the total permissible investments of a licensee and the licensee does not have at one time investments in receivables under this paragraph in any one person aggregating more than 10 percent of the licensee's total permissible investments; and

(6) a share or a certificate issued by an open-end management investment company that is registered with the United States Securities and Exchange Commission under the Investment Company Act of 1940 [15 U.S.C. §80a-1 et. seq.], and whose portfolio is restricted by the management company's investment policy to investments specified in paragraphs (1) through (4) of this subsection.

(b) The following investments are permissible under section 651, but only to the extent specified:

(1) an interest-bearing bill, note, bond, or debenture of a person whose equity shares are traded on a national securities exchange or on a national over-the-counter market, if the aggregate of investments under this paragraph do not exceed twenty percent (20%) of the total permissible investments of a licensee and the licensee does not at one time have investments under this paragraph in any one person aggregating more than ten percent (10%) of the licensee's total permissible investments;

(2) a share traded on a national securities exchange or a national over-the-counter market or a share or a certificate issued by an open-end management investment company that is registered with the United States Securities and Exchange Commission under the Investment Company Act of 1940, and whose portfolio is restricted by the management company's investment policy to shares traded on a national securities exchange or a national over-the-counter market, if the aggregate of investments under this paragraph does not exceed twenty percent (20%) of the total permissible investments of a licensee and the licensee does not at one time have investments under this paragraph in any one person aggregating more than ten percent (10%) of the licensee's total permissible investments;

(3) a demand-borrowing agreement made to a corporation or a subsidiary of a corporation whose securities are traded on a national securities exchange if the aggregate of the amount of principal and interest outstanding under demand-borrowing agreements under this paragraph does not exceed twenty percent (20%) of the total permissible investments of a licensee and the licensee does not at one time have principal and interest outstanding under demand-borrowing agreements under this paragraph with any one person aggregating more than ten percent (10%) of the licensee's total permissible investments; and

(4) any other investment the Commission reasonably determines to be permissible, to the extent specified by the Commission.

(c) The aggregate of investments under subsection (b) may not exceed fifty percent (50%) of the total permissible investments of a licensee calculated in accordance with section 629 of this Article.

### **Subarticle G. Enforcement**

#### **§631. Suspension and revocation; receivership**

The Commission may suspend or revoke a license or place a licensee in receivership if:

(a) the licensee violates this Article or a rule or regulation adopted or an order issued pursuant to this Article;

(b) the licensee does not cooperate with an examination or investigation by the Commission and/or the Division of Gaming Enforcement;

(c) the licensee engages in fraud, intentional misrepresentation, or gross negligence;

(d) the licensee or a key employee is convicted of a violation of a territorial or federal anti-money laundering statute or a provision of this Article, or violates a rule or regulation adopted or an order issued under this Article, as a result of the licensee's willful misconduct or willful blindness;

(e) the competence, experience, character, or general fitness of the licensee, key employee, person in control of a licensee, or responsible person of the licensee or authorized delegate indicates that it is not in the public interest to permit the person to conduct an Internet gaming or Internet gambling business;

(f) the licensee engages in an unsafe or unsound practice;

(g) the licensee is insolvent, suspends payment of its obligations, or makes an assignment for the benefit of its creditors; or

(h) the licensee does not remove an agent or key employee after the Commission issues and serves upon the licensee a final order including a finding that the person has violated this Article.

(i) providing materially false or misleading representations in the license application.

### **§632. Orders to cease and desist**

(a) If the Commission determines that a violation of this Article or of a rule or regulation adopted or an order issued pursuant to this Article by a licensee is likely to cause immediate and irreparable harm to the licensee, its players, or the public as a result of the violation, or cause insolvency or significant dissipation of assets of the licensee, the Commission may issue an order requiring the licensee to cease and desist from the violation. The order becomes effective upon the electronic, written or facsimile service of it upon the licensee.

(b) An order to cease and desist remains effective and enforceable pending the completion of an administrative proceeding pursuant to this chapter.

(c) A licensee or an authorized delegate that is served with an order to cease and desist may petition the Territorial Court of the Virgin Islands, for a judicial order setting



aside, limiting, or suspending the enforcement, operation, or effectiveness of the order pending the completion of an administrative proceeding pursuant to this Article.

### **§633. Consent orders**

The Commission may enter into a consent order at any time with a person to resolve a matter arising under this chapter. A consent order must be signed by the person to whom it is issued or by the person's authorized representative, and must indicate agreement with the terms contained in the order. A consent order may provide that it does not constitute an admission by a person that this chapter or a rule or regulation adopted or an order issued under this chapter has been violated.

### **§634. Civil penalties**

The Commission may assess a civil penalty against a person that violates this Article or a rule or regulation adopted or an order issued pursuant to this Article in an amount not to exceed \$10,000 per day for each day the violation is outstanding, plus the Commission's costs and expenses for the investigation and prosecution of the matter, including reasonable attorney's fees and expenses incurred by the Commission.

### **§635. Criminal penalties**

(a) A person that intentionally makes a false statement, misrepresentation, or false certification in a record filed or required to be maintained under this Article or that intentionally makes a false entry or omits a material entry in such a record is guilty of a felony.

(b) A person that knowingly engages in any activity for which a license is required under this Article without being licensed under this Article and who receives an Internet gaming or Internet gambling wager is guilty of a felony.

### **§636. Unlicensed persons**

(a) If the Commission has reason to believe that a person has violated or is violating section 605 of this Article, the Commission may issue an order to show cause why a cease and desist order should not be issued.

(b) An order to cease and desist becomes effective upon service of it upon the person.

(c) An order to cease and desist remains effective and enforceable pending the completion of an administrative proceeding pursuant to this Article.

(d) A person that is served with an order to cease and desist for violating section 605 may petition the Commission for reconsideration of such order.

(e) The Commission shall commence an administrative proceeding within ten (10) days after issuing an order to cease and desist.

#### **Subarticle H. Administrative Procedures**

##### **§637. Administrative procedures**

All administrative proceedings shall be conducted in accordance with this Article.

##### **§638. Hearings**

Except as otherwise provided in this Article, the Commission may not suspend or revoke a license, place a licensee in receivership, issue an order to cease and desist, or assess a civil penalty without notice and an opportunity to be heard. The Commission shall also hold a hearing when requested to do so by an applicant whose application for a license is denied.

##### **§639. Appeals to Territorial Court**

(a) Any determination of the Commission may be appealed, within thirty (30) days after the issuance of the order, to the Territorial Court for a judicial order setting aside, limiting, or suspending the enforcement, operation, or effectiveness of the order pending the completion of an administrative proceeding pursuant to this Article.

(b) Any hearing before the Territorial Court shall be based exclusively upon the record established before the Commission. The Territorial Court may reverse an order of the Commission if it determines it to be arbitrary and capricious.

#### **Subarticle I. Miscellaneous**

##### **§640. Legal Application to Approved Jurisdictions**

The provisions and activities authorized by this Article shall apply only to those jurisdictions where their law permits the activities authorized and licensed herein.

##### **§641. Severability**

If any Court shall declare any provision of this Article invalid, the remaining parts or portions of this Article shall remain in full force and effect.

**§642. Communication between the Commission and the Master Franchisor**

The Commission and the Master Franchisor shall inform or provide to each other copies of written communication with respect to players, licensees and any other matter pertaining thereto, on a timely bases.

**§643. Compliance of Licensee with the Franchise Agreement of the Master Franchisor**

In addition to complying with the rules and regulations promulgated by the Commission, the licensees shall execute a franchise agreement with the Master Franchisor to insure the licensee's compliance with the Master Franchisor's policies and procedures for the operation of Internet Gaming and Internet Gambling.

**§644. Licensing for gaming system software provider and testing of software and equipment**

Any person, business, corporation, company, partnership or other business entity shall be required to be licensed under the provisions of this chapter under provisions established by the Commission and all software, hardware, and industry-related gaming equipment used to conduct Internet gaming or Internet gambling and approved by the Master Franchisor shall be specifically tested by the Division of Gaming Enforcement and approved by the Commission. The Division may, in its discretion, and for the purpose of expediting the approval process, refer testing to any laboratory processing a license as a casino service industry. The Director shall give priority to the testing of the software, hardware, and industry-related gaming equipment to be used to conduct Internet gaming or Internet gambling.

**§645. Cost of monitoring**

All of the expenses incurred by the Commission and the Division to monitor or examine the Master Franchisors and the licensees under this Article shall be charged to and paid by the Master Franchisors and licensees, respectively.

**SECTION 3.** Title 32, section 246, subsection (a), paragraph (1), Virgin Islands Code, is amended by inserting between "video gaming machines or devices" and "slot machines" the phrase "Internet gaming or Internet gambling authorized by Article XIV, of this title".

**SECTION 4. Master Franchise Agreement**

(a) There is hereby granted Master Franchises to United States Virgin Islands Technologies Initiative, LLP and St. Croix Internet Group, LLC, under the terms and conditions outlined in this section and title 32, chapter 21, Article XIV, Virgin Islands Code and subject to investigation by the Commission which shall be conducted in accordance with and shall include the requirements contained in title 32, section 436(a),

(b) and (c), Virgin Islands Code. The Master Franchise Agreements shall provide the exclusive right to franchise and license approved licensees for the conduct of approved Internet gaming and approved Internet gambling in St. Croix, pursuant to title 32, chapter 21, Article XIV, Virgin Islands Code, and the Master Franchise Agreements.”;

(1) Provide sufficient bandwidth and telecommunication capability to adequately operate approved Internet gaming and approved Internet gambling services to all licensees.

(2) Provide sufficient redundancy and “back up” technology and procedures to ensure continuous operation independent of local utilities in case of natural disaster or emergency.

(3) Review and validate licensees’ gaming software for security, integrity and compliance with the terms of their license and the rules, regulations and directives of the Commission.

(4) Provide processing of online wagering for a licensee through the Master Franchisor’s bank.

(5) Establish franchise fees reasonable service fees as outlined herein.

(6) Establish policies and procedures for the operation of approved internet gaming or approved internet gambling.

(c) The Master Franchises shall be for an initial period of ten (10) years; provided however, the Master Franchisors shall have the option to renew the Master Franchise for two (2) additional ten (10) year periods, subject to the provisions of this Act, by submitting written notice to the Governor at least ninety (90) days prior to the expiration of its current term of the intent of the Master Franchisors to exercise its option to renew.

(d) Within one (1) year of the commencement of Internet gaming and Internet gambling the Master Franchisor shall commence the process for providing:

(1) Free high speed Internet access to all United States Virgin Islands public schools;

(2) Establishing and maintaining a technology work-study program for the youth of the Virgin Islands; and

(3) Establishing and maintaining a “Train the Teacher Program” for the public school teachers in the United States Virgin Islands.

(e) The managing partners of the Master Franchise shall be subject to the investigation and approval of the Virgin Islands Casino Control Commission in the same manner as outlined in title 32, section 444, Virgin Islands Code.

(f) The Master Franchisors and the licensees may accept and transmit financial transactions over the Internet/worldwide web (electronic data interchange) and telebanking which shall include, but are not limited to, credit cards, debit cards, prepaid transaction cards, electronic transfers and wire transfers for the purpose of conducting approved Internet gaming and approved Internet gambling in accordance with the provisions of title 32, chapter 21, Virgin Islands Code and the Master Franchise Agreements.

(g) The Master Franchisors shall operate all approved Internet gaming and approved Internet gambling web sites as approved by the Virgin Islands Casino Control Commission. The facilities shall be operated with high security procedures and strictly controlled access. Access to the communication center for computer hardware, software and telecommunications utilized for approved Internet gaming and approved Internet gambling shall be made available to those authorized by the Commission and the Master Franchisors. Access shall be further secured with electronic locks, 24 hour security cameras with videotape or similar medium and documented entry logs.

(h) The Master Franchisors shall provide consistent and equal telecommunication services to all licensees and shall not discriminate with regard to its operations based on race, color, religion, age, sex, sexual orientation, nationality, creed, physical disability or marital status.

(i) All personnel with access to the secured area shall be required to pass a criminal background and security check by the Commission.

(j) Any controversy or claim arising out of, or relating to the provisions of title 32, chapter 21, Virgin Islands Code and the Master Franchise Agreements shall be subject to and interpreted pursuant to Virgin Islands law and the jurisdiction shall be in the United States Virgin Islands.

(k) A Master Franchisor may be substituted by an affiliated entity upon the approval of the Casino Control Commission.

(l) The Master Franchisors shall not be held liable by any party for the actions of the Government of the Virgin Islands or the Commission with respect to the enforcement of any of the provisions of this Act.

(m) If both Master Franchisors commit any of the prohibited acts contained in title 32, section 438, Virgin Islands Code, or the requirements of the terms and conditions of the agreement, or defaults on any of the provisions of the Master Franchise Agreements, the Commission may terminate the Master Franchise Agreements and seek Requests for Proposals for a new Master Franchisor, provided, however, that prior to termination by the Commission for default, the Master Franchisor shall be given thirty (30) days to cure the default. The grant of a Master Franchise to a new Master Franchisor shall not become final until approved by the Legislature.

**SECTION 5.** The Commission shall report to the Legislature on the implementation and status of the activities authorized by this Act within ninety (90) days after the enactment date and containing every ninety (90) days thereafter.

**SECTION 6.** Title 32, section 444(a), Virgin Islands Code, is amended in the third sentence by inserting the following language after the word 'gaming':

'internet gaming and internet gambling'.

Thus passed by the Legislature of the Virgin Islands on July 18, 2001.

Witness our Hands and the Seal of the Legislature of the Virgin Islands this 26th Day of July, A.D., 2001.

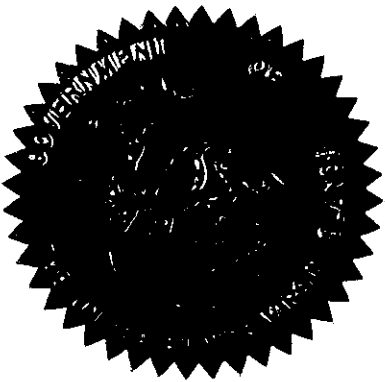


A handwritten signature in cursive script.

Almando "Rocky" Liburd  
President

A handwritten signature in cursive script.

Norman Jn. Baptiste  
Legislative Secretary



The above bill is hereby approved.

Witness my hand and the Seal of the Government of the United States Virgin Islands at Charlotte Amalie, St. Thomas, this 2<sup>nd</sup> day of August, A. D., 2001.

A handwritten signature in cursive script.

Charles W. Turnbull  
Governor