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## HOUSE BILL NO. 384

Offered January 21, 1994

A *BILL to amend and reenact § 58.1-4021 of the Code of Virginia, relating to compensation of lottery sales agents.*

Patrons—Abbitt and Deeds

Referred to Committee on General Laws

**Be it enacted by the General Assembly of Virginia:****1. That § 58.1-4021 of the Code of Virginia is amended and reenacted as follows:**

§ 58.1-4021. Deposit of moneys received by agents; performance of functions, etc., in connection with operation of lottery; compensation of agents.

A. The Director shall require all lottery sales agents to deposit to the credit of the State Lottery Fund in banks, designated by the State Treasurer, all moneys received by such agents from the sale of lottery tickets or shares, less any amount paid as prizes or retained as compensation to agents for the sale of the tickets or shares, and to file with the Director, or his designated agents, reports of their receipts, transactions and disbursements pertaining to the sale of lottery tickets in such form and containing such information as he may require. Such deposits and reports shall be submitted at such times and within such intervals as shall be prescribed by rule and regulation of the Department. The Director may arrange for any person, including a bank, to perform such functions, activities or services in connection with the operation of the lottery as he may deem advisable pursuant to this chapter and the rules and regulations of the Department, and such functions, activities and services shall constitute lawful functions, activities and services of the person.

B. The rules and regulations of the Department shall provide for a service charge to the licensed agent if any payor bank dishonors a check or draft tendered for deposit to the credit of the State Lottery Fund by a licensed agent or for an electronic transfer of funds to the State Lottery Fund from the account of a licensed agent for money received from the sale of lottery tickets.

The regulations of the Department shall provide for a service charge and penalty to a licensed agent if any payor bank dishonors a check or draft from the account of a licensed agent tendered for payment of any prize by a licensed agent to any claimant. Any such charge or penalty so collected by the Department shall be used first to reimburse the claimant for any charges or penalties incurred by him as a result of the licensed agent's dishonored check tendered as payment of any prize and the remainder to offset the Department's administrative costs.

C. A licensed agent shall be charged interest as provided in § 58.1-15 on the money that is not timely paid to the State Lottery Fund in accordance with the rules and regulations of the Department and shall in addition thereto pay penalties as provided by rules and regulations of the Department.

D. Should the Department refer the debt of any licensed agent to the Attorney General, the Department of Taxation as provided in § 58.1-520 et seq., or any other central collection unit of the Commonwealth, an additional service charge shall be imposed in the amount necessary to cover the administrative costs of the Department and agencies to which such debt is referred.

E. All proceeds from the sale of lottery tickets or shares received by a person in the capacity of a sales agent shall constitute a trust fund until deposited into the State Lottery Fund either directly or through the Department's authorized collection representative. Proceeds shall include cash proceeds of the sale of any lottery products, less any amount paid as prizes or retained as compensation to agents for the sale of the tickets or shares. *Compensation to sales agents shall be equal to seven percent of their respective sales.* Sales agents shall be personally liable for all proceeds.

F. If the Director determines that the deposit or collection from any sales agent of any moneys or proceeds under this section is or will be jeopardized or will otherwise be delayed, he may adjust either the time or the interval or both for such deposits or collections of any sales agent; require that all such moneys or proceeds shall be kept separate and apart from all other funds and assets and shall not be commingled with any other funds or assets prior to their deposit or collection under this section; and require such other security of any sales agent as he may deem advisable to ensure the timely deposit or collection of moneys or proceeds to the credit of the State Lottery Fund.

Collection of moneys or proceeds "is or will be jeopardized or will otherwise be delayed" when (i) a check, draft, or electronic funds transfer to the credit of the State Lottery Fund is dishonored as described in subsection B; (ii) an independent auditor states that the lottery sales agent's financial condition raises substantial doubt about its ability to continue as a going concern; or (iii) the lottery sales agent (a) closes for business or fails to maintain normal business hours without reasonable

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60 explanation, (b) has a credit record reflecting recent actions which cast doubt as to its creditworthiness,  
61 (c) states it has or may have cash flow problems or may be unable to meet its financial obligations, (d)  
62 states it may seek the protection of the federal bankruptcy or state insolvency law, (e) refuses to  
63 purchase additional lottery tickets or returns tickets ordered without good cause, or (f) does any other act  
64 tending to prejudice or to render wholly or partially ineffectual proceedings to collect moneys or  
65 proceeds which are or will become due and payable to the State Lottery Fund.