



MEETING AGENDA
MAY 21, 2018

1. CALL TO ORDER AND ESTABLISHMENT OF QUORUM
2. CONSIDERATION OF MINUTES, MEETING OF MARCH 26, 2018
3. REPORT OF THE ACTING EXECUTIVE DIRECTOR
4. RULEMAKING
 - A. REVISED PROPOSED GAMING RULEMAKING: SGC-09-18-00005- LICENSING AND REGISTRATION OF GAMING FACILITY EMPLOYEES AND VENDORS
 - B. PROPOSED CHARITABLE GAMING RULEMAKING: IMPLEMENTATION AND UPDATES
5. ADJUDICATIONS
 - A. IN THE MATTER OF BRANDON CHARLERIE
 - B. IN THE MATTER OF JAMES WHITE
 - C. IN THE MATTER OF NICHOLAS ZUFELT
 - D. IN THE MATTER OF HOTHARA FOOD MARKET
 - E. IN THE MATTER OF CITY MAX MARKET
6. OLD BUSINESS/NEW BUSINESS
7. SCHEDULING OF NEXT MEETING
8. ADJOURNMENT

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**NEW YORK STATE
GAMING COMMISSION**

MINUTES

MEETING of MARCH 26, 2018

NEW YORK, NEW YORK

A meeting of the Commission was conducted in New York, New York.

1. Call to Order

Acting Executive Director Ronald Ochrym called the meeting to order at 1:42 p.m. Establishment of a quorum was noted by Acting Secretary Kristen Buckley. In attendance were Chairman Barry Sample and Commissioners John Crotty, Peter Moschetti, John Poklemba, Gerald Skurnik.

2. Consideration of the Minutes from January 22, 2018

The Commission considered previously circulated draft minutes of the meeting conducted on January 22, 2018. The minutes were accepted as circulated.

3. Report of the Acting Executive Director

Acting Executive Director Ochrym provided a brief report on the Division of the Lottery's new website, National Problem Gambling Awareness Month and the upcoming Wood Memorial Day at Aqueduct Racetrack.

4. Rulemaking

a. Proposed Rulemaking: Commercial Casino Employee Vendor Wagering Restrictions

The Commission considered a revised proposal to restrict the wagering activities for certain employees of vendors of commercial casino licensees.

ON A MOTION BY: Commissioner Crotty
APPROVED: 5-0

5. Adjudications

a. In the Matter of A&T Grocery

The Commission, having considered this matter at a meeting conducted pursuant to the judicial or quasi-judicial proceedings exemption of N.Y. Public Officers Law § 108.1, announced that it had agreed, on a 5-0 vote, to accept the Hearing Officer's Report and Recommendation that A & T Grocery's license be revoked and that the period from the date of initial suspension be considered a suspension of the license.

b. In the Matter of KP Deli Corp.

The Commission, having considered this matter at a meeting conducted pursuant to the judicial or quasi-judicial proceedings exemption of N.Y. Public Officers Law § 108.1, announced that it had agreed, on a 5-0 vote, to accept the Hearing Officer's Report and Recommendation that KP Deli Corp.'s license be revoked and that the period from the date of initial suspension be considered a suspension of the license.

c. In the Matter of KAP Fuel & Food, Inc.

The Commission, having considered this matter at a meeting conducted pursuant to the judicial or quasi-judicial proceedings exemption of N.Y. Public Officers Law § 108.1, announced that it had agreed, on a 5-0 vote, to accept the Hearing Officer's Report and Recommendation that KAP Fuel & Food, Inc.'s license be revoked and that the period from the date of initial suspension be considered a suspension of the license.

d. In the Matter of Our Gourmet Deli Corp.

The Commission, having considered this matter at a meeting conducted pursuant to the judicial or quasi-judicial proceedings exemption of N.Y. Public Officers Law § 108.1, announced that it had agreed, on a 5-0 vote, to accept the Hearing Officer's Report and Recommendation that Our Gourmet Deli Corp.'s license be revoked and that the period from the date of initial suspension be considered a suspension of the license.

e. **In the Matter of Ricardo Justiniano**

The Commission, having considered this matter at a meeting conducted pursuant to the judicial or quasi-judicial proceedings exemption of N.Y. Public Officers Law § 108.1, announced that it had agreed, on a 4-1 vote, Commissioner Moschetti in the negative, to accept the Hearing Officer's Report and Recommendation that the denial of the applicant's registration be upheld.

f. **In the Matter of Milo Milo**

The Commission, having considered this matter at a meeting conducted pursuant to the judicial or quasi-judicial proceedings exemption of N.Y. Public Officers Law § 108.1, announced that it had agreed, on a 6-0 vote, to adopt the Hearing Officer's recommendation to reverse the stewards' decision to void the claim of Milo Milo, but rejected certain of the Hearing Officer's findings and conclusions of law.

g. **In the Matter of Catch Twenty Two**

The Commission, having considered this matter at a meeting conducted pursuant to the judicial or quasi-judicial proceedings exemption of N.Y. Public Officers Law § 108.1, announced that it had agreed, on a 6-0 vote, to adopt the Hearing Officer's recommendation to reverse the stewards' decision to void the claim of Catch Twenty Two, but rejected certain of the Hearing Officer's findings and conclusions of law.

6. New Business/Old Business

a. **Old Business**

No old business was offered for discussion.

b. **New Business**

No new business was offered for discussion.

7. Scheduling of Next Meeting

No specific date for the next Commission meeting was set.

8. Adjournment

The meeting was adjourned at 1:55 p.m.

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Gaming Commission

One Broadway Center, P.O. Box 7500, Schenectady, NY 12301-7500
www.gaming.ny.gov

To: Commissioners

From: Edmund C. Burns

Date: May 15, 2018

Re: Revised Proposed Rulemaking for Casino Licensing Amendments (9 NYCRR §§ 5303.14, 5304.1, 5304.2, 5305.1, 5305.2, 5305.3, 5305.4, 5306.2, 5306.3, 5306.4, 5307.3 and 5307.5)

The Commission proposed amendments to various casino licensing regulations, after initial experience with occupational licensing applications suggested that certain rules could be clarified or modified to enhance the licensing process. The proposal was published in the State Register on February 28, 2018. A copy of the *State Register* notice is attached.

One comment was submitted by Rivers Casino during the public comment period. A discussion of the proposed rules on which Rivers commented follows.

Disqualifying criterion of felony conviction

The proposal included a clarification of standards for licensure or registration, by incorporating statutory cross-references to important provisions or otherwise setting forth standards by regulation (Rules 5304.1, 5305.2 and 5306.2). Rivers apparently agrees with the language in the proposed Rule 5304.1(b). For the proposed Rule 5304.1(c), however, Rivers disagrees with the proposed clarification of the statutory language. Rivers interprets the statute differently. Racing, Pari-Mutuel Wagering and Breeding Law section 1318(1) provides as a disqualifying criterion “any offense in any jurisdiction which is or would be a felony or any other crime involving public integrity, embezzlement, theft, fraud or perjury.” Commission staff interprets the modifying phrase beginning with the word “involving” to limit the set of non-felony “other crimes” that would be disqualifying to those crimes that involve the listed subject matter. Rivers, on the other hand, interprets the statutory phrase “involving public integrity, embezzlement, theft, fraud or perjury” to modify both “felony” and “other crime,” thereby limiting disqualifying felonies to only those that involve public integrity, embezzlement, theft, fraud or perjury. Commission staff believes that its interpretation is correct, because the interpretation advanced by Rivers would render the words “felony or” and “other” superfluous in the statute. If the legislature meant what Rivers asserts was meant, the statute could have read, “any offense...which is or would be any crime involving....” It is a canon of statutory construction that statutes should not be read to render words meaningless.

Background checks for non-gaming employee applicants

Rivers suggests adding a subdivision (d) to Rule 5306.3 to state that the Commission has discretion to not perform a background check of a non-gaming employee if fingerprint results do not disclose any criminal history.

While no statute or regulation requires a full background check of a non-gaming employee, Commission staff agrees that the concept of the amendment Rivers suggests would be consistent with current Commission discretion and would make licensing of non-gaming employees more efficient and cost-effective, but recommends the following proposed rule language instead:

(d) In the discretion of the commission, a background investigation of a non-gaming employee need not be conducted if the review of the application, including the criminal history fingerprint results, indicates that a further background investigation is not necessary.

Exempt vendors

Rivers suggests adding to the list of providers that are not required to be licensed or registered as a vendor the following: nurses, EMTs, other medical providers, mail carriers, delivery services, online booking agents and non-gaming publicly traded companies.

Commission staff agrees with adding nurses, emergency medical technicians, other medical providers, mail carriers, delivery services and online booking agents to the list set forth in the regulation. Commission staff does not agree with adding non-gaming publicly traded companies to the exempted list, because doing so might put small business, which would be required to undergo investigation costs, at a disadvantage to publicly traded companies. With stylistic changes to the suggestions of Rivers, staff recommends the following amended proposed language:

- (5) physicians, nurses, emergency medical technicians, hospitals and other medical providers;
- (11) mail carriers, shipping services and delivery services;
- (12) online travel booking agents;
- (13) state and Federally chartered banks or savings and loan associations where funds are deposited by gaming facility licensees, notwithstanding those sources or transactions provided to a gaming facility licensee that require commission approval;

(14) any person not otherwise exempt under this subsection who or that is licensed by a Federal or state agency if the commission determines that such agency's licensing requirements are substantially similar to those of the commission;

[(11)] (15) any other person who, by submission of a written petition, demonstrates to the commission that registration as a non-gaming vendor is not necessary to protect the public interest. For the purposes of this paragraph, the gaming facility may submit a written petition on behalf of the person seeking exemption.

Rivers inquires about the interpretation of the revised proposed paragraph (14) and the interplay between paragraphs (14) and (15) of the revised proposed rule. Paragraph (14) concerns the Commission's ability to exempt a vendor from registration or licensing if the Commission determines that another regulator with substantially similar licensing requirements already regulates such vendor. The Commission may make this determination on its own initiative. Paragraph (15) provides a pathway for other vendors, not otherwise covered in the other paragraphs of the rule subdivision, to petition for an exemption. The revised proposed amendment to this paragraph does not change the commission's ability to grant a waiver of licensing or registration requirements. The proposal (other than renumbering) only adds the option for the gaming facility, rather than the vendor, to petition for the vendor's exemption, a change that is intended to ease the ability of a vendor to seek an exemption. The exemption petition process is anticipated to remain the same, as an ad hoc process pursuant to which a vendor seeking exemption would need to petition for the exemption or have the gaming facility petition for the exemption on behalf of such vendor. There is no timeline contemplated for the Commission to determine such petitions.

Employees of vendor registrants

Rivers suggests that the proposed Rule 5307.5(e) be amended to require that an employee of a vendor registrant be required to complete only a service provider form, rather than a non-gaming employee registration application.

Commission staff agrees that a full background check may not be necessary for each non-gaming employee registration applicant, but believes that a fingerprint criminal history check should be required. Furthermore, there is no currently existing service provider form. Commission staff recommends the following revised proposed language:

[(d) Employees] (e) Any employee of a vendor registrant [are] who will perform services at a gaming facility is required to [fill out] complete a non-gaming employee application form and [comply] undergo a criminal history check to determine compliance with the standards of a non-gaming employee as set forth in Part 5306 of this Subchapter.

The text of the revised proposed amendments, which incorporates the revisions set forth in this memorandum, is attached.

Commissioners

May 15, 2018

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[REDACTED]

[REDACTED]

attachment

cc: Ronald Ochrym, Acting Executive Director
Thomas Anapolis, Director, Division of Gaming
Danielle Holmes, Licensing Manager

Sections 5303.14, 5304.1, 5304.2, 5305.1, 5305.2, 5305.3, 5305.4, 5306.2, 5306.3, 5306.4, 5307.3 and 5307.5 of title 9 of NYCRR would be amended to read as follows:

§ 5303.14. Application and employment after denial or revocation.

(a) Any natural person whose license, registration or application was denied, suspended or revoked by the commission on the basis of any of the following provisions may reapply at any time after the failure or disqualification is cured:

(1) failure to demonstrate financial stability, after which reapplication is permitted only upon achieving financial stability;

(2) failure to satisfy the age requirement, after which reapplication is permitted only upon attaining the requisite age;

(3) if the commission has determined to deny a license or registration application or suspend or revoke a license or registration based upon a pending disposition of a criminal offense, reapplication is permitted upon disposition of the pending charge;

(4) if the commission has determined to deny a license or registration application or suspend or revoke a license or registration based upon the relation of the criminal history of the applicant and the employment position sought with the gaming facility, reapplication is permitted if a different employment position is sought to which the applicant's criminal history might not provide a basis for denial of the application; and

[(4)] (5) any statutory or regulatory provision that is subsequently repealed or modified, after which reapplication is permitted only upon a showing that the subsequent repeal or modification of the statutory or regulatory provision obviates the grounds for denial or revocation and justifies the conclusion that the prior determination should not be a basis for denying a license or registration application;

* * *

PART 5304
Casino Key Employee Licensing

* * *

§ 5304.1. Standards for issuance of a casino key employee license.

(a) The specific criteria and standards for casino key employee licensing are set forth in Racing, Pari-Mutuel Wagering and Breeding Law sections 1301(8) and 1323(1) through (6).

(b) All applicants for a casino key employee license have to prove, by clear and convincing evidence, his or her financial stability, integrity and responsibility as well as the applicant's good character, honesty and integrity.

[(b)] (c) Pursuant to Racing, Pari-Mutuel Wagering and Breeding Law section 1318(1)(c), a casino key employee is disqualified on the basis of any prior felony conviction.

§ 5304.2. Casino key employee license application and disclosure forms.

(a) An applicant for a casino key employee license shall file a multi-jurisdictional personal history disclosure form and other disclosure forms as required by the commission.

(b) Pursuant to the license application form, each applicant for a casino key employee license is required to provide a complete and accurate criminal history, including disclosing all prior arrests and convictions of the applicant.

(c) Subsequent to receiving a completed casino key employee license application, the commission shall provide the applicant with a copy of his or her criminal history information, if any, as required by Racing, Pari-Mutuel Wagering and Breeding Law section 1323(4).

(d) Each applicant for a casino key employee license is required to fill out the license form completely and accurately. Incomplete or misleading information supplied on the license form may result in denial of the application.

PART 5305

Gaming Employee Registration

Section

[5305.1 Persons required to register as a gaming employee]

[5305.2] 5305.1 Standards for issuance of a gaming employee registration

[5305.3] 5305.2 Gaming employee registration forms

[5305.4] 5305.3 Duration of registration

[§ 5305.1. Persons required to register as a gaming employee.]

[A person, as defined in Racing, Pari-Mutuel Wagering and Breeding Law section 1301(22), is required to obtain a gaming employee registration prior to being involved in any gaming licensed activities.]

[§ 5305.2] § 5305.1. Standards for issuance of a gaming employee registration.

(a) [Each applicant for a gaming employee registration shall produce such information, documentation and assurances as requested by the commission concerning the qualification criteria set forth in sections 5303.1 through 5303.6 of this Subchapter.] The specific criteria and standards for gaming employee registration are set forth in Racing, Pari-Mutuel Wagering and Breeding Law sections 1301(22) and 1324(1) through (5).

(b) Each applicant for a gaming employee registration is required to prove, by clear and convincing evidence, that the applicant is qualified to hold a gaming employee registration.

[(b) The] (c) Subsequent to receiving a completed gaming employee registrant application, the commission shall provide [an] the applicant [for a gaming employee

registration] with a copy of his or her criminal history information, if any, as required by Racing, Pari-Mutuel Wagering and Breeding Law section 1324(5).

[(c) Subsequent to the registration of a gaming employee, the executive director of the commission may revoke, suspend, limit or otherwise restrict the registration upon a finding that the registrant is disqualified on the basis of criteria set forth in Racing, Pari-Mutuel Wagering and Breeding Law section 1318. Notwithstanding, a gaming employee registration shall not be denied or revoked on the basis of a misdemeanor conviction provided that the registrant has affirmatively demonstrated registrant's rehabilitation, pursuant to article 23-A of the Correction Law.]

(d) Pursuant to Racing, Pari-Mutuel Wagering and Breeding Law section 1324(3), a gaming employee registration shall not be denied or revoked on the basis of a misdemeanor conviction or the commission of any act or acts that would constitute any offense described in Racing, Pari-Mutuel Wagering and Breeding Law section 1318 if the applicant has, in the judgment of the commission, affirmatively demonstrated the applicant's rehabilitation pursuant to article 23-A of the Correction Law.

[§ 5305.3.] § 5305.2. Gaming Employee Registration form.

(a) A gaming employee registrant shall file a gaming employee registration form the commission supplies and may amend from time to time.

(b) Pursuant to the registration form, each gaming employee registrant is required to provide a complete and accurate criminal history, including disclosing any prior arrests and convictions of the applicant.

(c) Each gaming employee registrant is required to fill out the registration form completely and accurately. Incomplete or misleading information supplied on the registration form may result in the denial of the application.

[§ 5305.4.] § 5305.3. Duration of registration.

(a) Gaming employee registrations shall remain valid as set forth in Racing, Pari-Mutuel Wagering and Breeding Law section 1325(6).

(b) Each gaming employee registration shall indicate an expiration date.

* * *

PART 5306

Non-Gaming Employee Registration

* * *

§ 5306.2. Standards for issuance of a non-gaming employee registration.

(a) Each applicant for a non-gaming employee registration shall produce such information, documentation and assurances as requested by the commission concerning the qualification criteria set forth in sections 5303.1 through 5303.6 of this Subchapter.

(b) Subsequent to the registration of a non-gaming employee[, the executive director of] the commission may revoke, suspend, limit or otherwise restrict the registration upon a finding that the registrant is disqualified on the basis of the criteria contained in Racing, Pari-Mutuel Wagering and Breeding Law section 1318. [Notwithstanding, a non-gaming employee registration shall not be denied or revoked on the basis of a misdemeanor conviction provided that the registrant has affirmatively demonstrated registrant's rehabilitation, pursuant to article 23-A of the Correction Law.]

(c) Notwithstanding subdivision (b) of this section, a non-gaming employee registration shall not be denied or revoked on the basis of a misdemeanor conviction [provided that the registrant has] or the commission of any act or acts that would constitute any offense described in Racing, Pari-Mutuel Wagering and Breeding Law section 1318 if the applicant has, in the judgment of the commission, affirmatively demonstrated [registrant's] the applicant's rehabilitation[,] pursuant to article 23-A of the Correction Law.

§ 5306.3. Non-gaming employee registration forms.

(a) A non-gaming employee registration applicant shall be required to file a non-gaming employee registration form that the commission supplies and may amend from time to time.

(b) Pursuant to the registration form, each non-gaming employee registrant is required to provide a complete and accurate criminal history, including disclosing any prior arrests and convictions of the applicant.

(c) Each non-gaming employee registrant is required to fill out the registration form completely and accurately. Incomplete or misleading information supplied on the registration form may result in the denial of the application.

(d) In the discretion of the commission, a background investigation of a non-gaming employee need not be conducted if the review of the application, including the criminal history fingerprint results, indicates that a further background investigation is not necessary.

§ 5306.4. Duration of registration.

(a) Non-gaming registrations shall remain valid [as set forth in Racing, Pari-Mutuel Wagering and Breeding Law section 1325(6)] for five years unless suspended or revoked. If a non-gaming registrant has not been employed in any position within a gaming facility for a period of three years, the registration of that non-gaming registrant shall lapse.

PART 5307
Vendor Licensing and Registration

* * *

§ 5307.3. Registration of other vendors.

* * *

(b) Notwithstanding the requirements set forth in this Part, entities engaged in the following fields of commerce that provide goods or services to a gaming facility applicant or licensee, shall not be required to be licensed or registered as a vendor:

- (1) insurance companies and insurance agencies;
- (2) television, radio newspaper, internet or other similar media outlets used for advertising purposes;
- (3) governmental entities performing traditional governmental functions;
- (4) providers of professional [legal, accounting and financial services] services including accountants, attorneys, engineers and architects, when acting in their respective professional capacities;
- (5) physicians, nurses, emergency medical technicians, hospitals and other medical providers;
- (6) utility companies;
- (7) telecommunication companies;
- (8) training seminars, publication subscriptions, conference registration or membership dues for professional associations intended to directly contribute to the work performance or professional development of an employee;
- (9) non-profit charitable corporations or organizations, provided that no consideration is received for the contribution;
- (10) professional sports teams, sports figures, entertainers and/or celebrity appearances;
- (11) mail carriers, shipping services and delivery services;
- (12) online travel booking agents;
- (13) state and Federally chartered banks or savings and loan associations where funds are deposited by gaming facility licensees, notwithstanding those sources or transactions provided to a gaming facility licensee that require commission approval;

(14) any person not otherwise exempt under this subsection who or that is licensed by a Federal or state agency if the commission determines that such agency's licensing requirements are substantially similar to those of the commission;

[(11)] (15) any other person who, by submission of a written petition, demonstrates to the commission that registration as a non-gaming vendor is not necessary to protect the public interest. For the purposes of this paragraph, the gaming facility may submit a written petition on behalf of the person seeking exemption.

(c) The commission may request information or assurances from any person listed in subdivision (b) of this section to determine the validity of such person's exempt status.

§ 5307.5. Vendor application and disclosure forms.

* * *

(d) No owner, manager, supervisory personnel or employee of a casino vendor enterprise licensee or ancillary casino vendor enterprise licensee that provides services to the gaming facility is permitted to wager at any gaming facility to which such licensee provides services.

[(d) Employees] (e) Any employee of a vendor registrant [are] who will perform services at a gaming facility is required to [fill out] complete a non-gaming employee application form and [comply] undergo a criminal history check to determine compliance with the standards of a non-gaming employee as set forth in Part 5306 of this Subchapter.

The regulation simply codifies the methodology used by the Banking Division of the Department of Financial Services (the "Department") to assess all entities regulated by it, including those which are small businesses. The regulation does not increase the total costs assessed to the regulated industries or alter the allocation of regulatory costs between the various industries regulated by the Banking Division.

Indeed, the only change from the allocation methodology used by the Banking Department in the previous state fiscal years is that the regulatory costs assessed to the mortgage banking industry will be divided among the entities in that group on a basis which includes income derived from secondary market and servicing activities. The Department believes that this is a more appropriate basis for allocating the costs associated with supervising mortgage banking entities. It is expected that the effect of this change will be that larger members of the mortgage banking industry will pay an increased proportion of the total cost of regulating that industry, while the relative assessments paid by smaller industry members will be reduced.

2. Compliance Requirements:

The regulation does not change existing compliance requirements. Both Section 17 of the Banking Law and Section 206 of the Financial Services Law provide that all expenses (compensation, lease costs and other overhead) of the Department in connection with the regulation and supervision of any person or entity licensed, registered, incorporated or otherwise formed pursuant to the Banking Law are to be charged to, and paid by, the regulated institutions subject to the supervision of the Banking Division. Under both statutes, the Superintendent is authorized to assess regulated institutions in the Banking Division in such proportions as the Superintendent shall deem just and reasonable.

3. Professional Services:

None.

4. Compliance Costs:

All regulated institutions are currently subject to assessment by the Banking Division. The regulation simply formalizes the Banking Division's assessment methodology. It makes only one change from the allocation methodology used by the Banking Department in the previous state fiscal years. That change affects only one of the industry groups regulated by the Banking Division. Regulatory costs assessed to the mortgage banking industry are now divided among the entities in that group on a basis which includes income derived from secondary market and servicing activities. Even within the one industry group affected by the change, additional compliance costs, if any, are expected to be minimal.

5. Economic and Technological Feasibility:

All regulated institutions are currently subject to the Banking Division's assessment requirements. The formalization of the Banking Division's assessment methodology in a regulation will not impose any additional economic or technological burden on regulated entities which are small businesses.

6. Minimizing Adverse Impact:

Even within the mortgage banking industry, which is the one industry group affected by the change in assessment methodology, the change will not affect the total amount of the assessment. Indeed, it is anticipated that this change may slightly reduce the proportion of mortgage banking industry assessments that is paid by entities that are small businesses.

7. Small Business and Local Government Participation:

This regulation does not impact local governments.

This regulation simply codifies the methodology which the Banking Division uses for determining the just and reasonable proportion of the Banking Division's costs to be charged to and paid by each regulated institution, including regulated institutions which are small businesses. The overall methodology was adopted in 2005 after extensive discussion with regulated entities and industry associations representing groups of regulated institutions, including those that are small businesses.

Thereafter, the Banking Department applied assessments against all entities subject to its regulation. In addition, for fiscal 2010, the Banking Department changed its overall methodology slightly with respect to assessments against the mortgage banking industry to include income derived from secondary market and servicing activities. Litigation was commenced challenging this latter change, and in a recent decision, *In the Matter of Homestead Funding Corporation v. State of New York Banking Department et al.*, 944 N.Y.S. 2d 649 (2012), the court determined that the Department should adopt a change to its assessment methodology for mortgage bankers through a formal assessment rule promulgated pursuant to the requirements of the State Administrative Procedures Act. The challenged change in methodology had the effect of increasing the proportion of assessments against the mortgage banking industry paid by its larger members, while reducing the assessments paid by smaller participants, including those which are small businesses.

Rural Area Flexibility Analysis

Types and Estimated Numbers: There are entities regulated by the New York State Department of Financial Services (formerly the Banking

Department) located in all areas of the State, including rural areas. However, this rule simply codifies the methodology currently used by the Department to assess all entities regulated by it. The regulation does not alter that methodology, and thus it does not change the cost of assessments on regulated entities, including regulated entities located in rural areas.

Compliance Requirements: The regulation would not change the current compliance requirements associated with the assessment process.

Costs: While the regulation formalizes the assessment process, it does not change the amounts assessed to regulated entities, including those located in rural areas.

Minimizing Adverse Impact: The regulation does not increase the total amount assessed to regulated entities by the Department. It simply codifies the methodology which the Superintendent has chosen for determining the just and reasonable proportion of the Department's costs to be charged to and paid by each regulated institution.

Rural Area Participation: This rule simply codifies the methodology which the Department currently uses for determining the just and reasonable proportion of the Department's costs to be charged to and paid by each regulated institution, including regulated institutions located in rural areas. The overall methodology was adopted in 2005 after extensive discussion with regulated entities and industry associations representing groups of regulated institutions, including those located in rural areas. It followed the loss of several major banking institutions that had paid significant portions of the former Banking Department's assessments.

Thereafter, the Department applied assessments against all entities subject to its regulation. In addition, for fiscal 2010, the Department changed this overall methodology slightly with respect to assessments against the mortgage banking industry to include income derived from secondary market income and servicing income. This latter change was challenged by a mortgage banker, and in early May, the Appellate Division determined that the latter change should have been made in conformity with the State Administrative Procedures Act. The challenged part of the methodology had the effect of increasing the proportion of assessments against the mortgage banking industry paid by its larger members, while reducing the assessments paid by smaller participants.

Job Impact Statement

The regulation is not expected to have an adverse effect on employment.

All institutions regulated by the Banking Division (the "Banking Division") of the Department of Financial Services are currently subject to assessment by the Department. The regulation simply formalizes the assessment methodology used by the Banking Division. It makes only one change from the allocation methodology used by the former Banking Department in the previous state fiscal years.

That change affects only one of the industry groups regulated by the Banking Division. It somewhat alters the way in which the Banking Division's costs of regulating mortgage banking industry are allocated among entities within that industry. In any case, the total amount assessed against regulated entities within that industry will remain the same.

New York State Gaming Commission

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Licensing and Registration of Gaming Facility Employees and Vendors

I.D. No. SGC-09-18-00005-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: Amendment of Parts 5303-5307 of Title 9 NYCRR.

Statutory authority: Racing, Pari-Mutuel Wagering and Breeding Law, sections 104(19), 1307(1), (2), 1322, 1323, 1324, 1325, 1326 and 1327

Subject: Licensing and registration of gaming facility employees and vendors.

Purpose: To govern the licensing and registration of gaming facility employees and vendors.

Text of proposed rule: Sections 5303.14, 5304.1, 5304.2, 5305.1, 5305.2, 5305.3, 5305.4, 5306.2, 5306.3, 5306.4, 5307.3 and 5307.5 of title 9 of NYCRR would be amended to read as follows:

§ 5303.14. Application and employment after denial or revocation.

(a) Any natural person whose license, registration or application was denied, suspended or revoked by the commission on the basis of any of the following provisions may reapply at any time after the failure or disqualification is cured:

(1) failure to demonstrate financial stability, after which reapplication is permitted only upon achieving financial stability;

(2) failure to satisfy the age requirement, after which reapplication is permitted only upon attaining the requisite age;

(3) if the commission has determined to deny a license or registration application or suspend or revoke a license or registration based upon a pending disposition of a criminal offense, reapplication is permitted upon disposition of the pending charge;

(4) if the commission has determined to deny a license or registration application or suspend or revoke a license or registration based upon the relation of the criminal history of the applicant and the employment position sought with the gaming facility, reapplication is permitted if a different employment position is sought to which the applicant's criminal history might not provide a basis for denial of the application; and

[§(4)] (5) any statutory or regulatory provision that is subsequently repealed or modified, after which reapplication is permitted only upon a showing that the subsequent repeal or modification of the statutory or regulatory provision obviates the grounds for denial or revocation and justifies the conclusion that the prior determination should not be a basis for denying a license or registration application;

* * *

PART 5304

Casino Key Employee Licensing

* * *

§ 5304.1. Standards for issuance of a casino key employee license.

(a) The specific criteria and standards for casino key employee licensing are set forth in Racing, Pari-mutuel Wagering and Breeding Law sections 1301(8) and 1323(1) through (6).

(b) All applicants for a casino key employee license have to prove, by clear and convincing evidence, his or her financial stability, integrity and responsibility as well as the applicant's good character, honesty and integrity.

[§(b)] (c) Pursuant to Racing, Pari-Mutuel Wagering and Breeding Law section 1318(1)(c), a casino key employee is disqualified on the basis of any prior felony conviction.

§ 5304.2. Casino key employee license application and disclosure forms.

(a) An applicant for a casino key employee license shall file a multi-jurisdictional personal history disclosure form and other disclosure forms as required by the commission.

(b) Pursuant to the license application form, each applicant for a casino key employee license is required to provide a complete and accurate criminal history, including disclosing all prior arrests and convictions of the applicant.

(c) Subsequent to receiving a completed casino key employee license application, the commission shall provide the applicant with a copy of his or her criminal history information, if any, as required by Racing, Pari-Mutuel Wagering and Breeding Law section 1323(4).

(d) Each applicant for a casino key employee license is required to fill out the license form completely and accurately. Incomplete or misleading information supplied on the license form may result in denial of the application.

PART 5305

Gaming Employee Registration

Section

[§5305.1 Persons required to register as a gaming employee]

[§5305.2] 5305.1 Standards for issuance of a gaming employee registration

[§5305.3] 5305.2 Gaming employee registration forms

[§5305.4] 5305.3 Duration of registration

[§ 5305.1. Persons required to register as a gaming employee.]

[A person, as defined in Racing, Pari-Mutuel Wagering and Breeding Law section 1301(22), is required to obtain a gaming employee registration prior to being involved in any gaming licensed activities.]

[§ 5305.2] § 5305.1. Standards for issuance of a gaming employee registration.

(a) [Each applicant for a gaming employee registration shall produce such information, documentation and assurances as requested by the commission concerning the qualification criteria set forth in sections 5303.1 through 5303.6 of this Subchapter.] The specific criteria and standards for gaming employee registration are set forth in Racing, Pari-Mutuel Wagering and Breeding Law sections 1301(22) and 1324(1) through (5).

(b) Each applicant for a gaming employee registration is required to prove, by clear and convincing evidence, that the applicant is qualified to hold a gaming employee registration.

[§(b) The] (c) Subsequent to receiving a completed gaming employee registrant application, the commission shall provide [an] the applicant [for a gaming employee registration] with a copy of his or her criminal history information, if any, as required by Racing, Pari-Mutuel Wagering and Breeding Law section 1324(5).

[§(c) Subsequent to the registration of a gaming employee, the executive director of the commission may revoke, suspend, limit or otherwise restrict the registration upon a finding that the registrant is disqualified on the basis of criteria set forth in Racing, Pari-Mutuel Wagering and Breeding Law section 1318. Notwithstanding, a gaming employee registration shall not be denied or revoked on the basis of a misdemeanor conviction provided that the registrant has affirmatively demonstrated registrant's rehabilitation, pursuant to article 23-A of the Correction Law.]

(d) Pursuant to Racing, Pari-Mutuel Wagering and Breeding Law section 1324(3), a gaming employee registration shall not be denied or revoked on the basis of a misdemeanor conviction or the commission of any act or acts that would constitute any offense described in Racing, Pari-Mutuel Wagering and Breeding Law section 1318 if the applicant has, in the judgment of the commission, affirmatively demonstrated the applicant's rehabilitation pursuant to article 23-A of the Correction Law.

[§ 5305.3.] § 5305.2. Gaming Employee Registration form.

(a) A gaming employee registrant shall file a gaming employee registration form the commission supplies and may amend from time to time.

(b) Pursuant to the registration form, each gaming employee registrant is required to provide a complete and accurate criminal history, including disclosing any prior arrests and convictions of the applicant.

(c) Each gaming employee registrant is required to fill out the registration form completely and accurately. Incomplete or misleading information supplied on the registration form may result in the denial of the application.

[§ 5305.4.] § 5305.3. Duration of registration.

(a) Gaming employee registrations shall remain valid as set forth in Racing, Pari-Mutuel Wagering and Breeding Law section 1325(6).

(b) Each gaming employee registration shall indicate an expiration date.

* * *

PART 5306

Non-Gaming Employee Registration

* * *

§ 5306.2. Standards for issuance of a non-gaming employee registration.

(a) Each applicant for a non-gaming employee registration shall produce such information, documentation and assurances as requested by the commission concerning the qualification criteria set forth in sections 5303.1 through 5303.6 of this Subchapter.

(b) Subsequent to the registration of a non-gaming employee[, the executive director of] the commission may revoke, suspend, limit or otherwise restrict the registration upon a finding that the registrant is disqualified on the basis of the criteria contained in Racing, Pari-Mutuel Wagering and Breeding Law section 1318. [Notwithstanding, a non-gaming employee registration shall not be denied or revoked on the basis of a misdemeanor conviction provided that the registrant has affirmatively demonstrated registrant's rehabilitation, pursuant to article 23-A of the Correction Law.]

(c) Notwithstanding subdivision (b) of this section, a non-gaming employee registration shall not be denied or revoked on the basis of a misdemeanor conviction [provided that the registrant has] or the commission of any act or acts that would constitute any offense described in Racing, Pari-Mutuel Wagering and Breeding Law section 1318 if the applicant has, in the judgment of the commission, affirmatively demonstrated [registrant's] the applicant's rehabilitation[,] pursuant to article 23-A of the Correction Law.

§ 5306.3. Non-gaming employee registration forms.

(a) A non-gaming employee registration applicant shall be required to file a non-gaming employee registration form that the commission supplies and may amend from time to time.

(b) Pursuant to the registration form, each non-gaming employee registrant is required to provide a complete and accurate criminal history, including disclosing any prior arrests and convictions of the applicant.

(c) Each non-gaming employee registrant is required to fill out the registration form completely and accurately. Incomplete or misleading information supplied on the registration form may result in the denial of the application.

§ 5306.4. Duration of registration.

(a) Non-gaming registrations shall remain valid [as set forth in Racing, Pari-Mutuel Wagering and Breeding Law section 1325(6)] for five years unless suspended or revoked. If a non-gaming registrant has not been employed in any position within a gaming facility for a period of three years, the registration of that non-gaming registrant shall lapse.

PART 5307

Vendor Licensing and Registration

* * *

§ 5307.3. Registration of other vendors.

* * *

(b) Notwithstanding the requirements set forth in this Part, entities engaged in the following fields of commerce that provide goods or services to a gaming facility applicant or licensee, shall not be required to be licensed or registered as a vendor:

(1) insurance companies and insurance agencies;

(2) television, radio newspaper, internet or other similar media outlets used for advertising purposes;

(3) governmental entities performing traditional governmental functions;

(4) providers of professional [legal, accounting and financial services] services including accountants, attorneys, engineers and architects, when acting in their respective professional capacities;

(5) physicians;

(6) utility companies;

(7) telecommunication companies;

(8) training seminars, publication subscriptions, conference registration or membership dues for professional associations intended to directly contribute to the work performance or professional development of an employee;

(9) non-profit charitable corporations or organizations, provided that no consideration is received for the contribution;

(10) professional sports teams, sports figures, entertainers and/or celebrity appearances;

(11) shipping services;

(12) state and Federally chartered banks or savings and loan associations where funds are deposited by gaming facility licensees, notwithstanding those sources or transactions provided to a gaming facility licensee that require commission approval;

(13) any person not otherwise exempt under this subsection who or that is licensed by a Federal or state agency if the commission determines that such agency's licensing requirements are substantially similar to those of the commission;

[(11)] (14) any other person who, by submission of a written petition, demonstrates to the commission that registration as a non-gaming vendor is not necessary to protect the public interest. For the purposes of this paragraph, the gaming facility may submit a written petition on behalf of the person seeking exemption.

(c) The commission may request information or assurances from any person listed in subdivision (b) of this section to determine the validity of such person's exempt status.

§ 5307.5. Vendor application and disclosure forms.

* * *

(d) No owner, manager, supervisory personnel or employee of a casino vendor enterprise licensee or ancillary casino vendor enterprise licensee that provides services to the gaming facility is permitted to wager at any gaming facility to which such licensee provides services.

[(d) Employees] (e) Any employee of a vendor registrant [are] who will perform services at a gaming facility is required to [fill out] complete a non-gaming employee application form and comply with the standards of a non-gaming employee as set forth in Part 5306 of this Subchapter.

Text of proposed rule and any required statements and analyses may be obtained from: Kristen Buckley, New York State Gaming Commission, One Broadway Center, Schenectady, NY 12305, (518) 388-3332, email: gamingrules@gaming.ny.gov

Data, views or arguments may be submitted to: Same as above.

Public comment will be received until: 60 days after publication of this notice.

Regulatory Impact Statement

1. STATUTORY AUTHORITY: Racing, Pari-Mutuel Wagering and Breeding Law ("Racing Law") section 104(19) grants authority to the Gaming Commission ("Commission") to promulgate rules and regulations that it deems necessary to carry out its responsibilities. Racing Law section 1307(1) grants rule making authority to the Commission to implement, administer and enforce the provisions of Racing Law Article 13.

Racing Law section 1307(2) prescribes that the Commission regulate, among other things: the methods and forms of application and registration that any applicant or registrant shall follow and complete; the methods, procedures, and form for delivery of information concerning any person's family, habits, character, associates, criminal record, business activities and financial affairs; the procedures for the fingerprinting of an employee of a licensee, or registrant; the manner and method of collection of payments of fees; and the grounds and procedures for the revocation or suspension of licenses and registrations.

Racing Law section 1322 requires the Commission to regulate the form by which applicants, licensees and registrants provide information pertaining to their qualifications for licensure or registration.

Racing Law section 1323 requires the Commission to regulate the procedures for photographing and fingerprinting applicants, licensees and registrants for identification and investigation purposes.

Racing Law section 1324 requires the Commission to regulate the method and form of registration that a gaming employee shall follow and complete, and the form for delivery of information pertaining to a gaming employee's qualifications for registration.

Racing Law section 1325 requires the Commission to establish by regulation appropriate fees to be paid upon the filing of the required applications.

Racing Law section 1326 requires the Commission to establish by regulation the time period during which a casino vendor may conduct business transactions with a gaming facility applicant or licensee prior to the casino vendor receiving a license. Racing Law section 1326 also requires the Commission to regulate the method and form of vendor registration.

Racing Law section 1327 requires the Commission to establish by regulation appropriate fees to be imposed on vendor registrants.

2. LEGISLATIVE OBJECTIVES: The above referenced statutory provisions carry out the legislature's stated goal "to tightly and strictly" regulate casinos "to guarantee public confidence and trust in the credibility and integrity of all casino gambling in the state and to prevent organized crime from any involvement in the casino industry" as set forth in Racing Law section 1300(10).

3. NEEDS AND BENEFITS: The proposed amendments implement the above listed statutory directives regarding the establishment of licensing and registration requirements for gaming facility employees and vendors. The proposed amendments provide specificity with respect to updating information contained in their applications, specifying the process of reapplication after a denial or revocation of a license or registration, clarifying the categories of vendor licensing and designating groups of vendors who are not required to be licensed.

4. COSTS:

(a) Costs to the regulated parties for the implementation of and continuing compliance with these rules: There are no new or additional costs associated with the proposed amendments. The amendments seek to clarify the existing licensing and registration process and, in certain circumstances, exempt specific vendors from the licensing or registration process, reducing overall costs to the gaming facilities and the vendors.

(b) Costs to the regulating agency, the State, and local governments for the implementation of and continued administration of these rules: There are no new or additional costs associated with the proposed amendments. The amendments seek to clarify the existing process and, in certain cases, exempt specific vendors from the licensing or registration process, reducing overall costs to the division of the state police and the Commission. The proposed amendments will not impose any additional costs on local governments.

(c) The information, including the source or sources of such information, and methodology upon which the cost estimate is based: These proposed amendments are clarifying the process of licensing and registration of gaming facility employees and vendors. They impose no additional costs; no methods were used to determine the costs to the regulated parties or the Commission and the state.

5. LOCAL GOVERNMENT: These proposed amendments do not impose any mandatory program, service, duty, or responsibility upon local government because the licensing and registration of gaming facility employees and vendors is strictly a matter of State law.

6. PAPERWORK: These proposed amendments are not expected to impose any significant paperwork requirements for gaming facility employees and vendor applicants other than the paperwork already required by the existing rules.

7. DUPLICATION: The proposed amendments do not duplicate, overlap or conflict with any existing State or federal requirements.

8. ALTERNATIVES: The Commission consulted stakeholders and reviewed other gambling jurisdiction best practices and regulations. Alternatives were discussed and considered with stakeholders and compared to other jurisdiction regulations. These included the type of information required to be updated from an employee or vendor application;

the appropriate vendors to be exempt from the licensing or registration process; and the types of vendors to be properly classified as ancillary vendor enterprises.

9. FEDERAL STANDARDS: There are no federal standards applicable to the licensing or registration of gaming employees and vendors in New York. It is purely a matter of New York State law.

10. COMPLIANCE SCHEDULE: The Commission anticipates that affected parties will be able to achieve compliance with these proposed amendments upon adoption.

Regulatory Flexibility Analysis

1. EFFECT OF RULE: These proposed amendments impact the licensure and registration of gaming facility employees and vendors. Small business vendors seeking to be licensed or registered will be impacted by these amendments. Local government will not be affected by these rules.

2. COMPLIANCE REQUIREMENTS: These proposed amendments require participating small business vendors to update their application with the Commission under specific circumstances.

3. PROFESSIONAL SERVICES: No new or additional professional services are required in order to comply with these proposed amendments.

4. COMPLIANCE COSTS: These amendments impose no new or additional compliance costs upon the small business vendors.

5. ECONOMIC AND TECHNOLOGICAL FEASIBILITY: These proposed amendments will not impose any technological costs on small businesses or local government.

6. MINIMIZING ADVERSE IMPACT: These proposed amendments do not impose adverse impacts on small businesses or local government.

7. SMALL BUSINESS AND LOCAL GOVERNMENT PARTICIPATION: These proposed amendments are in response to comments received from industry stakeholders and affected parties. Small businesses and local governments will have an additional opportunity to submit comments regarding these amendments during the comment period of the rule making process.

8. FOR RULES THAT EITHER ESTABLISH OR MODIFY A VIOLATION OR PENALTIES ASSOCIATED WITH A VIOLATION: The Commission has an administrative hearing process in place, which provides for notice and an opportunity to be heard, for those licensed vendors that violate the rules associated with horse racing, lottery, video lottery and charitable gaming. The Commission anticipates a similar process applying to those licensed vendors that violate Article 13 of the Racing, Pari-Mutuel Wagering and Breeding Law and the related rules.

Rural Area Flexibility Analysis

Several of the development zone regions authorized to host a licensed gaming facility, as contemplated by Racing, Pari-Mutuel Wagering and Breeding Law section 1310, are located within "rural areas" as that term is defined in Executive Law section 481(7). The decision to locate a licensed gaming facility in a rural area will not have an adverse economic impact. In addition, these proposed amendments will not have an adverse or disproportionate economic impact upon rural areas. Accordingly, a rural flexibility analysis is not required and one has not been prepared.

Job Impact Statement

1. NATURE OF IMPACT: The Commission has determined that the proposed amendments to these rules will not have a substantial adverse impact on jobs and employment opportunities. To the contrary, these rules are intended to create thousands of well-paying jobs. In addition, the amendments are intended to clarify the process for potential employees and vendors to obtain a license or registration from the Commission.

2. CATEGORIES AND NUMBERS AFFECTED: It is anticipated that up to 4 gaming facilities, as contemplated by Racing, Pari-Mutuel Wagering and Breeding Law Article 13, would employ more than 4,000 people. In addition, the construction of the gaming facilities will generate many new jobs.

3. REGIONS OF ADVERSE IMPACT: The Commission does not anticipate regions of the state to suffer a disproportionate adverse impact in regards to jobs or employment opportunities.

4. MINIMIZING ADVERSE IMPACT: These amendments do not create any unnecessary adverse impact on existing jobs. A positive impact on jobs and employment is anticipated.

Department of Health

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Managed Care Organizations

I.D. No. HLT-09-18-00006-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: Amendment of section 98-1.11(e) of Title 10 NYCRR.

Statutory authority: Public Health Law, section 4403(2)

Subject: Managed Care Organizations.

Purpose: To maintain the contingent reserve requirement applied to the Medicaid Managed Care, HIV SNP and HARP programs.

Text of proposed rule: Subparagraph (ii) of paragraph (1) of subdivision (e) of section 98-1.11 is amended to read as follows:

(ii) Notwithstanding the provisions of subparagraph (i) above, the contingent reserve applicable to net premium income generated from the Medicaid managed care[Family Health Plus,] and HIV SNP[, and HARPs] programs shall be:

- (a) 7.25 percent of net premium income for 2011;
- (b) 7.25 percent of net premium income for 2012;
- (c) 7.25 percent of net premium income for 2013;
- (d) 7.25 percent of net premium income for 2014;
- (e) 7.25 percent of net premium income for 2015;
- (f) [8.25] 7.25 percent of net premium income for 2016;
- (g) [9.25] 7.25 percent of net premium income for 2017;
- (h) [10.25] 7.25 percent of net premium income for 2018;
- (i) [11.25] 8.25 percent of net premium income for 2019;
- (j) [12.5] 9.25 percent of net premium income for 2020;
- (k) [12.5] 10.25 percent of net premium income for 2021;

[calendar years after 2020.]

(l) 11.25 percent of net premium income for 2022;

(m) 12.5 percent of net premium income for 2023;

(n) 12.5 percent of net premium income for calendar years after 2023.

The provisions of this subparagraph shall not apply to HMOs and PHSPs beginning operations in 201[1]6 or after.

New Subparagraph (iii) of paragraph (1) of subdivision (e) of section 98-1.11 is added to read as follows:

(iii) The contingent reserve applicable to net premium income generated from the Health and Recovery Plans (HARPs) shall be the same percentages listed in subparagraph (ii), except that for years 2015, 2016 and 2017 the applicable contingent reserve shall be 5.0 percent of net premium income.

[(iii)](iv) Upon an HMO, PHSP or HIV SNP reaching its maximum contingent reserve of 12.5 percent of its net premium income for a calendar year, it must continue to maintain its contingent reserve at this level thereafter. Such contingent reserve requirement shall be deemed to have been met if the net worth of the HMO, PHSP or HIV SNP, based upon admitted assets, equals or exceeds the applicable contingent reserve requirement for such calendar year.

Text of proposed rule and any required statements and analyses may be obtained from: Katherine Ceroalo, DOH, Bureau of House Counsel, Reg. Affairs Unit, Room 2438, ESP Tower Building, Albany, NY 12237, (518) 473-7488, email: regsqna@health.ny.gov

Data, views or arguments may be submitted to: Same as above.

Public comment will be received until: April 30, 2018.

This rule was not under consideration at the time this agency submitted its Regulatory Agenda for publication in the Register.

Regulatory Impact Statement

Statutory Authority:

Public Health Law section 4403(2) states the Commissioner may adopt and amend rules and regulations pursuant to the state administrative procedures act to effectuate the purposes and provisions of Article 44, which governs the certification and operational requirements of Managed Care Organizations (MCOs).

Legislative Objectives:

10 NYCRR 98 was extensively amended in 2005 to further implement the provisions of Article 44 of the Public Health Law. The proposed amendment to § 98-1.11(e) continues the Medicaid Redesign Team Proposal #6 (2% reduction in Medicaid premium rates) by temporarily reduc-



Gaming Commission

One Broadway Center, P.O. Box 7500, Schenectady, NY 12301-7500
www.gaming.ny.gov

To: Commissioners

From: Edmund C. Burns

Date: May 15, 2018

Re: Proposed Rulemaking for Charitable Gaming Implementation and Updates
(various sections of 9 NYCRR Chapter II)

For Commission consideration are rule changes to implement various provisions of recent charitable gaming legislation and update various charitable gaming regulations. Part MM of Chapter 59 of the Laws of 2017, enacted as part of the State budget, made various charitable gaming reforms, including raising prize limits for various forms of charitable gaming, easing the process for charities to gain permission to sell raffle tickets and conduct raffle drawings in municipalities in contiguous counties and expanding permissible advertising. Chapter 464 of the Laws of 2017 allowed for purchases of chances in charitable gaming with credit and debit cards and authorized sales of raffle tickets through internet or mobile device platforms and directed the Commission to regulate, to a reasonable degree of certainty, that the purchase of a raffle ticket though such platforms is initiated and received in an authorized municipality for such charity or other authorized organization, that purchasers are not minors and that the privacy and online security of participants is protected.

This proposal addresses these legislative changes and makes other stylistic edits to conform charitable gaming regulations to the amended statutes and other commission regulations. In particular, this proposal:

- requires a charitable organization wishing to conduct internet or mobile device raffle sales to
 - demonstrate geolocation capabilities to comply with statutory location requirements;
 - have age verification procedures to prevent play by minors;
 - offer parental controls;
 - have procedures to prevent promotional materials being sent to minors;
 - have privacy protection procedures; and
 - have procedures to protect the security of personal information of ticket purchasers from unauthorized disclosure (Rule 4620.22);
- updates various prize limit references to eliminate specific limits and instead cross-reference statutory requirements (Rules 4601.1, 4602.1, 4611.1, 4611.2, 4620.10, 4620.19, 4620.22, 4622.12, 4622.22, 4624.1, 4800.1, 4820.14, 4820.18, 4820.20, 4820.26, 4820.49 and 4820.52);

- requires authorized organizations wishing to conduct raffles outside the premises of such organization to submit proposed municipal locations to the Commission in advance, to enable the Commission to alert the affected municipalities and give such municipalities an opportunity to exercise a statutory right to object (Rule 4620.22);
- removes prohibition against civic organizations as authorized organizations to conduct charitable gaming and excludes political action committees from the definition of authorized organization (Rule 4600.1);
- adds a rule to describe play in merchandise wheel games (Rule 4620.10);
- increases retention period for winning bell jar tickets to one year (Rule 4620.19);
- reduces the number of required raffle drums or receptacles for the game of search for the queen of hearts (Rule 4620.23);
- provides that only monies collected from the sale of raffle tickets may be used to form the prize pool in the search for the queen of hearts game (Rule 4620.23);
- makes optional the three drawings in certain weeks of the game of search for the queen of hearts and clarifies that if three drawings are held, the winners search in the order in which their winning tickets were selected (Rule 4620.23);
- makes restrictions on participation as a player limited to the category of game (games of chance, bell jar or raffles) in which a person has participated or of which the person has assisted in the management (Rule 4622.20);
- clarifies that alcohol sale and consumption is subject to applicable Alcoholic Beverage Control Law provisions (Rule 4622.23);
- provides that games of chance advertising may not include misleading information or representations, consistent with bingo advertising rule (Rules 4622.26 and 4820.47);
- eliminates certain paperwork requirements for raffles (Rule 4624.8);
- allows for electronic transfers of funds for payments to governmental entities, operating expenses and game suppliers (Rules 4624.9 and 4821.9);
- clarifies reporting requirements when an authorized organization ceases conducting games of chance or bingo (Rules 4624.17 and 4821.17);
- eliminates certain donation requirements for service and fraternal organizations (Rules 4624.21 and 4821.18);
- clarifies that minors may assist in ancillary non-gaming activities (Rules 4820.2 and 4820.3);
- limits sale of bingo opportunities to the same day of the occasion and prohibits presale (Rule 4820.14);
- eliminates prohibition on payment for bingo opportunity by check (Rule 4820.44);
- clarifies that a bonus ball in bingo must remain posted throughout all bingo games during such bingo occasion (Rule 4820.57);
- increases maximum number of electronic bingo aids from 15 to 25 percent of total bingo seating capacity (Rule 4823.7);

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- eliminates verbatim repetition of statute (Rules 4600.1, 4601.1, 4602.1, 4603.8; 4607.10, 4608.2, 4608.4, 4608.5, 4608.12, 4608.13, 4611., 4620.22, 4621.1, 4622.26, 4800.1, 4820.25, 4820.50, 4820.52, 4820.56 and 4820.57);
- adds cross-references to controlling statutes (Rule 4606.12, 4607.10, 4608.2, 4608.6, 4611.1, 4620.22, 4622.21, 4622.25, 4622.25, 4624.3 and 4624.21);
- moves a provision in regard to penalties for underage participation in raffles to a new section (Rule 4602.10); and
- makes stylistic and technical changes consistent with other Commission rules.

The text of the proposed amendments is attached.

attachment

cc: Ronald Ochrym, Acting Executive Director
Stacy Harvey, Director, Division of Charitable Gaming

§ 4600.1. Definition of terms and general provisions.

Unless the context indicates otherwise, the following definitions and the definitions set forth in General Municipal Law sections 186 and 190-a(2) are applicable throughout Subchapters A and B of this Chapter:

[(a) *Municipality* means any city, town or village within this State.]

(a) *Authorized organization*, as defined in General Municipal Law section 186(4), includes a bona fide civic organization or a bona fide organization of volunteer ambulance workers that otherwise satisfies the definition set forth in such statute. No political entity, including a political action fundraising committee, shall be deemed an authorized organization.

(b) Commission means New York State Gaming Commission.

[(c) *Games of chance* means and includes only the games known as "merchandise wheels," "raffles," "bell jars," "coin boards," "merchandise boards," "seal cards" and such other specific games as may be authorized by the commission, in which prizes are awarded on the basis of a designated winning number or numbers, color or colors, symbol or symbols determined by chance, but not including games commonly known as "bingo" or "lotto" and also not including "slot machines," "bookmaking," "policy or numbers games" and "lottery," as defined in section 225.00 of the Penal Law. Only games of chance designated by the commission may be conducted. No game of chance shall involve wagering of money by one player against another player.]

[(d) *Authorized organization* means and includes any bona fide religious or charitable organization or bona fide educational, fraternal or service organization or bona fide organization of veterans or volunteer firemen, that by its charter, certificate of incorporation, constitution, or act of the Legislature, shall have among its dominant purposes one or more of the lawful purposes as defined in this Chapter, provided that each shall operate without profit to its members, and provided that each such organization has engaged in serving one or more of the lawful purposes as defined in this Chapter for a period of three years immediately prior to applying for a license under this Chapter. No organization shall be deemed an authorized organization that is formed primarily for the purpose of conducting games of chance and that does not devote at least 75 percent of its activities to other than conducting games of chance. No political party nor civic organization shall be deemed an authorized organization.]

[(e) *Lawful purposes* means one or more of the following causes, deeds or activities:]

[(1) Those that benefit needy or deserving persons indefinite in number by enhancing their opportunity for religious or educational advancement, by relieving them from disease, suffering or distress, or by contributing to their physical well-being, by assisting them in establishing themselves in life as worthy and useful citizens, or by increasing their comprehension of and devotion to the principles upon which this nation was founded and enhancing their loyalty to their governments.]

[(2) Those that initiate, perform or foster worthy public works or enable or further the erection or maintenance of public structures.]

Charitable gaming proposed rules

[(3) Those that initiate, perform or foster the provision of services to veterans by encouraging the gathering of such veterans and enable or further the erection or maintenance of facilities for use by such veterans that shall be used primarily for charitable or patriotic purposes or those purposes that are authorized by a bona fide organization of veterans, provided however that such proceeds are disbursed in accordance with the rules and regulations of the commission.]

[(4) Those that otherwise lessen the burdens borne by government or that are voluntarily undertaken by an authorized organization to augment or supplement services that government would normally render to the people.]

[(f) *Net proceeds* means:]

[(1) in relation to the gross receipts from one or more license periods of games of chance, the amount that shall remain after deducting the reasonable sums necessarily and actually expended for supplies and equipment, prizes, security personnel, stated rental if any, bookkeeping or accounting services according to a schedule of compensation prescribed by the commission, janitorial services and utility supplies if any, license fees, and the cost of bus transportation, if authorized by the clerk or department; and]

[(2) in relation to the gross rent received by an authorized games of chance lessor for the use of its premises by a games of chance licensee, the amount that shall remain after deducting the reasonable sums necessarily and actually expended for janitorial services and utility supplies directly attributable thereto, if any.]

[(g) *Net lease* means a written agreement between a lessor and lessee under the terms of which the lessee is entitled to the possession, use or occupancy of the whole or part of any premises from any authorized games of chance lessor for which the lessee pays rent to the lessor.]

[(h) *Authorized games of chance lessor* means an authorized organization that has been granted a lessor's license pursuant to the provisions of this Chapter or a municipality.]

[(i) *Single prize* means the sum of money or actual value of merchandise awarded to a participant by a games of chance licensee in any one operation of a single type of game of chance in excess of his wager.]

[(j) *Series of prizes* means the total amount of single prizes minus the total amount of wagers lost during the successive operations of a single type of game of chance, except that for merchandise wheels and raffles, series of prizes means the sum of the fair market value of merchandise awarded as single prizes during the successive operations of any single merchandise wheel or raffle. In the game of raffle, a series of prizes may include a percentage of the sum of cash received from the sale of raffle tickets.]

[(k) *Single type of game* means the game of chance known as "merchandise wheels" and each other specific game of chance authorized by the commission, regardless of the number of merchandise wheels and locations at which such other single type of game of chance may be conducted.]

Charitable gaming proposed rules

[(l) *Operation* means the play of a single type of game of chance necessary to determine the outcome or winners each time wagers are made.]

[(m) *One occasion* means the successive operations of any one single type of game of chance that results in the awarding of a series of prizes amounting to \$500 or \$400 during any one license period, in accordance with the provisions of subdivision 8 of section 189 of the General Municipal Law, as the case may be. For purposes of the game of chance known as "merchandise wheels," or "raffles," one occasion shall mean the successive operations of any one such merchandise wheel or raffle for which the limit on a series of prizes provided by subdivision 6 of section 189 of the General Municipal Law shall apply. For purposes of the games of chance known as a bell jar, coin boards, merchandise boards and seal cards, one occasion shall mean the successive operation of any one such bell jar, coin board, merchandise board and seal card, deal that results in the awarding of a series of prizes not to exceed \$3,000. For the purposes of the game of chance known as "raffles", one occasion shall mean a calendar year during which successive operations of such game are conducted.]

[(n) *License period* means a period of time, not to exceed 14 consecutive hours, during which authorized games of chance commence and terminate, except that the license period for bell jar and raffles shall commence January 1 and terminate December 31 of such year.]

[(o) *Authorized supplier of games of chance equipment* means any person, firm, partnership, corporation or organization licensed by the commission to sell or lease games of chance equipment or paraphernalia that meets the specifications and regulations established by the commission. Nothing in this Chapter shall prevent an authorized organization from purchasing common articles, such as cards and dice, from normal sources of supply of such articles or from constructing equipment and paraphernalia for games of chance for its own use. However, no such equipment or paraphernalia, constructed or owned by an authorized organization that has previously obtained an identification number, shall be sold or leased to any licensed authorized organization without written permission from the commission.]

[(p) *Clerk* means the clerk of a municipality outside the City of New York.]

[(q) *Officer* means the chief law enforcement officer of a municipality outside the City of New York or, if such municipality exercises the option set forth in subdivision 2 of section 194 of the General Municipal Law, the chief law enforcement officer of the county.]

[(r) *Department* means the New York City Department of Consumer Affairs.]

[(s) *Premises* means a designated area within a building, hall, tent or grounds reasonably identified for the conduct of games of chance. Nothing in this Subchapter shall require such area to be enclosed.]

[(t) *Games of chance currency* means legal tender or chip authorized by the commission either of which may be used at the discretion of the games of chance licensee.]

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[(u) *Bell jars*, which include coin boards, merchandise boards and seal cards mean and include those games in which a participant shall draw a card from a jar or other suitable container or from a commission-approved vending machine, that contains numbers, colors or symbols that are covered and that, when uncovered, may reveal that a prize shall be awarded on the basis of a designated winning number, color or symbol or combination of numbers, colors or symbols. *Coin board* and *merchandise board* mean a board used in conjunction with bell jar tickets bearing the same serial number that contains and displays various coins and/or merchandise prizes that are awarded to players whose bell jar ticket number matches the pre-designated number reflected on the board for a specific prize. *Seal card* means a board or placard used in conjunction with a deal of bell jar tickets bearing the same serial number, that contains one or more concealed areas that, once uncovered, reveal a pre-designated winning number, letter or symbol.]

[(v) *Raffles* mean and include those games in which a participant pays money in return for a ticket or other receipt and in which a prize is awarded on the basis of a winning number or numbers, color or colors, or symbol or symbols designated on the ticket or receipt, determined by chance as a result of a drawing from among those tickets or receipts previously sold.]

* * *

§ 4601.1. Application requirements.

* * *

(b) This application for registration and identification number must be signed as follows: if a religious organization, by the priest or pastor, or the president or chairman of the board of directors of the congregation if a synagogue or temple; if a charitable organization, by the president; if an organization of veterans, by the commander; if an organization of volunteer [firemen] firefighters, by the president. The legally responsible principal official of the applicant organization shall sign in his or her representative capacity.

(c) Notwithstanding the registration requirements set forth in this Part, an authorized organization may conduct a raffle without complying with such registration requirements[, provided, that such organization shall derive net proceeds from raffles in an amount less than \$5,000 during the conduct of one raffle and shall derive net proceeds from raffles in an amount less than \$20,000 during one calendar year. Such organization must first determine that such organization is in fact an “authorized organization” in order to qualify for such an exemption. For the purposes of this subdivision, *authorized organization* means and includes any bona fide religious or charitable organization or bona fide educational, fraternal or service organization or bona fide organization of veterans or volunteer firefighters that by its charter, certificate of incorporation, constitution, or act of the Legislature, shall have among its dominant purposes one or more of the lawful purposes as defined in this chapter for a period of three years immediately prior to being granted the registration requirement exemption. No organization shall be deemed an authorized organization that is formed primarily for the purpose of conducting games of chance and that does not devote at least 75 percent of its activities to other than conducting games of chance. No political party shall be deemed an authorized

organization] so long as such authorized organization satisfies the conditions set forth in General Municipal Law section 190-a.

* * *

§ 4602.1. Form for application.

(a) An application for a license to conduct games of chance shall be made on forms GC-2, GC-2A and GC-2B, as prescribed by the commission. Notwithstanding, and in lieu of the licensing requirements set forth in this Part, an authorized organization defined in [subdivision 4 of section 186 of the] General Municipal Law section 186(4) that has received an identification number from the commission[,] shall file a verified statement, for which no fee shall be required, with the clerk or department and the commission, attesting that such organization shall derive net proceeds or net profits from raffles in an amount [less than \$30,000 during one occasion or part thereof at which raffles are to be conducted] within the limits set forth in General Municipal Law section 190-a(1). Such statement shall be on form GCVS-1 Verified Statement for Raffle Ticket Operations as prescribed by the commission, which shall be deemed a license to conduct raffles. An organization that has filed a verified statement with the clerk or department and the commission attesting that such organization shall derive net proceeds or net profits from raffles in an amount [less than \$30,000 during one occasion or part thereof] within the limits set forth in General Municipal Law section 190-a(1) that in fact derives net proceeds or net profits exceeding [\$30,000 during any one occasion or part thereof] any of such limits shall be required to obtain a license as required by this Part and shall be subject to the reporting requirements of section 4624.3 of this Subchapter.

(b) Notwithstanding the licensing requirements set forth in this Part, an authorized organization [that has met the self-determination requirements of subdivision (c) of section 4601.1 of this Subchapter] may conduct a raffle without complying with such licensing requirements, provided that such organization shall derive net proceeds from raffles in an amount [less than \$5,000 during the conduct of one raffle and shall derive net proceeds from raffles in an amount less than \$20,000 during one calendar year] within the limits set forth in General Municipal Law section 190-a(1).

[(1) No person under the age of 18 shall be permitted to play, operate or assist in any raffle conducted pursuant to this subdivision.]

[(2) Raffles conducted pursuant to this subdivision shall be conducted only within a municipality in which the authorized organization is domiciled that has passed a local law, ordinance or resolution in accordance with Sections 187 and 188 of the General Municipal Law approving the conduct of games of chance that are located within the county or contiguous to the county in which the organization is domiciled.]

[(3) The commission shall penalize a licensee found to have violated paragraph (1) of this subdivision as follows:]

[(i) for a first violation, a written warning of such violation;]

[(ii) for a second violation within one year of a violation, a fine of \$500;]

- [(iii) for a third violation within one year of a violation, a fine of \$1,000; and]
[(iv) for a fourth or subsequent violation within one year of a violation, such further actions as the commission may deem appropriate, which may include without limitation the suspension or revocation of any license or privilege to conduct raffles in this State.]

* * *

§ 4602.10. Penalties for underage participation.

The commission shall penalize an authorized organization found to have violated General Municipal Law sections 190-a(3) and 195-a, which govern the minimum age for play, operation or the assisting in any raffle conducted pursuant to General Municipal Law section 190-a, as follows:

- (i) for a first violation, a written warning of such violation;
(ii) for a second violation within one year of a violation, a fine of \$500;
(iii) for a third violation within one year of a violation, a fine of \$1,000; and
(iv) for a fourth or subsequent violation within one year of a violation, such further actions as the commission may deem appropriate, which may include without limitation the suspension or revocation of any license or privilege to conduct raffles in this State.

* * *

§ 4603.8. Sunday[, conduct of games on].

[Except as provided in the Games of Chance Licensing Law, no games of chance shall be commenced under any license issued under this Chapter on Sunday, unless it shall be otherwise provided in the license issued for the conducting thereof, pursuant to the provisions of a local law or an ordinance duly adopted by the governing body of the municipality wherein the license is issued, authorizing the conduct of games of chance under this Chapter on that day between the hours of noon and midnight only, except if the following day is a legal holiday. Notwithstanding the foregoing provisions of this section, no games of chance shall be conducted on Easter Sunday or Christmas Day.] Conduct of games on Sunday is governed by General Municipal Law section 195.

* * *

§ 4606.12. Limitation on premises that may be made available for rent.

An authorized games of chance lessor must establish that the premises to be licensed for rental belong absolutely to the lessor and, where the lessor has conducted licensed games of chance, the premises to be leased are the same in which the lessor has conducted games of chance during the license year. No authorized games of chance lessor shall be licensed to lease any or all premises for more than 12 license periods

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during a calendar year, as set forth in General Municipal Law section 191(1)(b). Where an authorized organization leases premises on a full-time basis for purposes encompassing all of the customary and lawful activities of such organization, including but not limited to the conduct of games of chance, it shall be eligible for a games of chance lessor's license to lease said premises. Owners, net lessors, holding companies or parent groups which lease or make premises available to one or more authorized organizations on a full-time basis for purposes encompassing all of the customary and lawful activities of such organizations, including but not limited to the conduct of games of chance, are not required to be licensed as games of chance lessors.

§ 4607.10. Ineligibility for a license.

[The following] Persons and entities set forth in General Municipal Law 189-a(a) shall be ineligible for a games of chance supplier's license[:].

[(a) a person convicted of a crime who has not received a pardon, a certificate of good conduct or a certificate of relief from disabilities.]

[(b) a person who is or has been a professional gambler or gambling promoter or who for other reasons is not of good moral character;]

[(c)a public officer or employee;]

[(d) an authorized games of chance lessor licensed under the Games of Chance Licensing Law; and]

[(e) a firm, partnership, organization, association, joint venture or corporation in which a person defined in subdivision (a), (b), (c) or (d) of this section has greater than a 10-percent proprietary, equitable or credit interest, or in which such a person is active or employed.]

* * *

§ 4607.21. Recapitulation of fees.

At the end of the license period, a recapitulation shall be made as between the supplier licensee and the commission with respect to the gross sales recorded during the license period and the license fee previously paid, as required by General Municipal Law section 189-a(e). Any deficiency of fee thereby established to be due shall be paid by the licensee and, should said licensee apply for a license for a subsequent year, and in that event only, shall any excess of fee be credited to said applicant.

* * *

§ 4608.2. Manufacturers of bell jar tickets: reports and records.

* * *

(b) [For business conducted in New York State,] Penalties for any licensed manufacturer who sells bell jar tickets to other than a distributor licensed by the commission as a supplier [shall:] are set forth in General Municipal Law section 195-n(1).

[(1) upon such first offense, have their license suspended for a period of 30 days;]

[(2) upon such second offense, participate at a hearing to be conducted by the commission and surrender their license for such period as recommended by the commission; and]

[(3) upon such third or subsequent offense, have their license suspended for a period of one year and shall be guilty of a class E felony. Any unlicensed manufacturer who violates this section shall be guilty of a class E felony.]

(c) *Bar Codes:*

(1) The manufacturer of bell jar tickets shall affix to the flare of each bell jar game, and to each coin board, merchandise board and seal card a bar code in a format approved by the commission.

(2) The manufacturer shall also affix to the outside of the container or wrapping containing a deal of bell jar tickets, or beneath such wrapping if such wrapping is clear, a bar code providing the same information as the bar code affixed to the flare.

(3) [No] As required by General Municipal Law section 195-n(2), no person may alter the bar code that appears on the flare, on a coin board, on a merchandise board, on a seal card or on the outside of the container or wrapping or beneath clear wrapping containing a deal of bell jar tickets. Possession of a deal of bell jar tickets that has a bar code different from the serial number of the deal inside the container or wrapping as evidenced on the flare is *prima facie* evidence that the possessor has altered the bar code on the container or wrapping.

(d) *Bell jar flares.*

In addition to the requirements set forth in General Municipal Law section 195-n(3):

[(1) A manufacturer shall not ship nor cause to be shipped into this State any deal of bell jar tickets that does not have its own individual flare as required by this Part.]

[(2)] (1) No person, other than a licensed manufacturer, shall manufacture, alter, modify[,] or otherwise change a flare for a deal of bell jar tickets except as authorized by section 4620.19 of this Subchapter.

[(3) The flare for each deal of bell jar tickets sold by a licensed manufacturer in this State shall be placed inside the wrapping of the deal that the flare describes.]

[(4) The bar code affixed to the flare of each bell jar game shall bear the serial number of such game as prescribed in section 4608.3 of this Part.] (2) Each number within the serial number shall be printed in digits and/or characters not less than one-half inch high.

[(5) The] (3) As required by General Municipal Law section 195-n(3)(d), the flare of each bell jar game shall have affixed a bar code that provides:

- (i) Encrypted within the bar code:
 - (a) the serial number of the game;
 - (b) the name or identifier of the manufacturer; and
 - (c) the game code.
- (ii) In human readable form located in the area of the bar code:
 - (a) the serial number of the game; and
 - (b) the number of tickets in the deal.

[(6)] (4) The game ticket payout card shall be imprinted on or affixed to the reverse side of the flare.

§ 4608.3. Standards for construction of bell jar tickets.

All bell jar tickets sold in the State of New York [must] shall comply with the following standards:

- (a) All bell jar tickets offered for sale or resale in New York [must] shall have a [commission approved] commission-approved logo or manufacturer's name printed thereon.
- (b) All bell jar tickets manufactured for sale or resale in New York after January 1, 1999 shall [utilize] include a winner verification code on tickets redeemable for prizes with a value of \$50 or more. Each manufacturer shall establish its own winner verification code for each bell jar ticket game or series of games. The winner verification code shall be a method of verifying winning bell jar tickets, after they have been purchased and opened, from non-winning, altered or forged bell jar tickets. Manufacturers may use special numbers, colors, designs, ink or any combination thereof to establish the winner verification code. Manufacturers shall submit to the commission a letter explaining the winner verification code and shall keep the commission informed, by written notice, of any changes. Winner verification codes shall not be required for banded single-sided single-tabbed, double-sided single-tabbed and folded bell jar tickets.
- (c) Bell jar tickets shall be constructed so that it is impossible to determine the covered or concealed number, color, symbol, set of symbols[,] or game protection code on the bell jar ticket by any method or device, including, [but not limited to] without limitation, use of a marking, variance in size, variance in paper color and fiber[,] or [500 watt high intensity]

examination by 500-watt high-intensity light, until the bell jar ticket has been dispensed to and opened by the player.

* * *

(f) No serial number used on a deal of bell jar tickets may be repeated on that same manufacturer's form number within a [three year] three-year period. Each tabbed bell jar ticket shall contain perforated and/or clean-cut openings over the numbers, colors or symbols on one side of each bell jar ticket in such a manner as to allow easy opening by the consumer after purchase of the bell jar ticket, while not permitting bell jar tickets to be opened prematurely in normal handling. Perforation should exist on both the horizontal lines of the opening with either perforate or clean-cut on the vertical or elliptical line where the ticket must be grasped for opening after bending the edge of the ticket. The numbers, colors or symbols must be fully visible in the window and must be placed so that no part of the numbers, colors or symbols remain covered when a tab is removed. Placement of the numbers, colors or symbols to the left or right of center is allowed for increased game security. On banded bell jar tickets, the paper stock of the band shall be color coded when individual serial numbers are repeated.

§ 4608.4. Submission of bell jar tickets for commission approval.

(a) Licensed manufacturers of bell jar tickets, which shall include coin boards, merchandise boards, and seal cards, shall submit to the commission for approval any new, revised or modified bell jar [ticket(s)] ticket or tickets that the licensed manufacturer intends to offer for sale or resale in New York State. The terms, "new," "revised" or "modified" shall include the exclusive printing of the supplier-distributor name, logo or other [symbol(s)] symbol or symbols on the tickets. The licensed manufacturer requesting review and approval of bell jar [ticket(s)] ticket or tickets pursuant to this section shall provide the commission with the following:

(1) a sample, artist's rendering or color photocopy of the bell jar [ticket(s)] ticket or tickets accompanied by a statement indicating the new, revised or modified [feature(s)] feature or features of the bell jar ticket. A sample of the original bell jar ticket shall also be submitted for comparison with the submission of revised or modified bell jar tickets;

(2) a sample, artist's rendering or color photocopy of the payout card for the bell jar [ticket(s)] ticket or tickets; and

(3) a sample, artist's rendering or color photocopy of the flare for the bell jar [ticket(s)] ticket or tickets.

(b) [Within 30 days of receipt of such sample, artist's rendering or color photocopy, the commission shall approve or deny such submission. Following approval of a rendering of a bell jar ticket, seal card, merchandise board, or coin board by the commission, the manufacturer shall submit to the commission a sample of the printed bell jar ticket, seal card, merchandise board, coin board, payout card, and flare for such game. Such sample shall be submitted prior to the sale of the game to any licensed distributor for resale in this state. For coin boards and merchandise boards, nothing herein shall require the submittal of actual coins or merchandise as part of the approval process. Any licensed

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manufacturer who willfully violates the provision of this section shall:] General Municipal Law section 195-n(1) sets forth requirements for submission of printed materials after a submission is approved and penalties for noncompliance.

[(1) upon such first offense, have the manufacturer's license suspended for a period of 30 days;]

[(2) upon such second offense, participate at a hearing to be conducted by the commission and surrender the manufacturer's license for such period as recommended by the commission; and]

[(3) upon such third or subsequent offense, have the manufacturer's license suspended for a period of one year and shall be guilty of a class E felony.]

* * *

§ 4608.5. Licensed games of chance suppliers of bell jar tickets, supplies and equipment.

* * *

(c) [Licensed suppliers who willfully violate the provisions of this section shall:] Penalties for willful violations of bell jar distribution requirements set forth in General Municipal Law section 195-o are set forth in such section.

[(1) upon such first offense, have the supplier's license suspended for a period of 30 days;]

[(2) upon such second offense, participate at a hearing to be conducted by the commission and surrender the supplier's license for such period as recommended by the commission; and]

[(3) upon such third or subsequent offense, have the supplier's license suspended for a period of one year and shall be guilty of a class E felony. Any unlicensed supplier who violates this section shall be guilty of a class E felony.]

§ 4608.6. Business records; retention.

(a) [A licensed games of chance supplier of bell jar tickets, supplies and equipment shall keep at each place of business complete and accurate records for that place of business, including itemized invoices of bell jar tickets, supplies and equipment held and purchased. The records must] In addition to the recordkeeping requirements set forth in General Municipal Law section 195-o(2), such records shall contain the following information:

(1) [The name, address,] the commission identification number and license number of all purchasers;

(2) [The] the name and address of the federally recognized Indian tribe or nation; and

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(3) [All] all other pertinent papers and documents relating to the purchase, sale[,] or disposition of bell jar tickets, supplies and equipment, including shipping records as may be required by the commission.

(b) [All] In addition to licensed games of chance suppliers of bell jar tickets, as set forth in General Municipal Law section 195-o(2), licensed manufacturers [and licensed games of chance suppliers] of bell jar tickets, supplies and equipment shall maintain their books, records, itemized invoices, and other papers and documents required by commission rules for a period of not less than four years, unless the commission authorizes in writing their destruction or disposal at an earlier date. [Violation of this section shall constitute a misdemeanor.]

§ 4608.7. Invoices; licensed manufacturers and/or licensed suppliers of bell jar tickets, supplies and equipment.

* * *

(c) The invoice filed by the licensed manufacturer or licensed supplier of bell jar tickets shall contain the following information:

- (1) [Name,] name, address and commission license number of the manufacturer;
- (2) [Name,] name, address and commission license number of the games of chance supplier or federally recognized Indian tribe or nation;
- (3) [Total] total number of bell jar ticket deals;
- (4) [For] for each game sold:
 - (i) deal serial number;
 - (ii) game form number;
 - (iii) price per ticket in deal;
 - (iv) number of tabs per ticket;
 - (v) total ticket count of each deal;
 - (vi) ideal gross profit;
 - (vii) ideal net profit; and
 - (viii) unit price and total sale price[.];
- (5) [Date] date of sale;
- (6) [Date] date of shipment;
- (7) [Identity] identity of carrier; and

(8) [Licensed] licensed suppliers, except licensed manufacturers, also shall [also] provide the following information:

- (i) [The] the account number identifying the sale from the licensed manufacturer to the licensed supplier and the account number identifying the sale from the licensed supplier to the authorized organization; and
- (ii) [The] the name(s) of the bona fide member(s) who ordered the product.

* * *

§ 4608.12. Additional licensing fee.

[(a) All authorized organizations licensed to sell bell jar tickets shall, upon filing financial statements of bell jar ticket operations, tender to the commission a sum in the amount of five percent of the net proceeds from the sale of each deal of bell jar tickets for that portion of license period covered by such statement.]

[(b) For the purposes of this section, *net proceeds* shall mean the difference between the ideal handle from the sale of a deal of bell jar tickets, which] ideal handle, within the meaning of General Municipal Law section 195-q, shall mean the total face value of all tickets in a deal [less the amount of money actually paid out in total prizes for that deal and the purchase price to the licensee of each bell jar deal, coin board, merchandise board or seal card. Additionally, a credit shall be permitted against the net proceeds fee in the amount of unsold tickets of the bell jar deal so long as the unsold tickets have the same game serial number as the tickets for which the fee is rendered. Unsold tickets shall be kept on file by the selling licensed authorized organization for inspection by the commission for a period of one year following the date upon which the relevant financial statement was received by the commission].

[(c) One-half of one percent of the net proceeds fee received from the licensed authorized volunteer fire companies shall be paid to the New York State emergency services revolving loan account as established pursuant to section 97-pp of the State Finance Law.]

§ 4608.13. [Flare defined.] [Repealed]

[A *flare* shall mean a poster describing the bell jar ticket game which shall include a declaration of the number of winning tickets and amount of total payout in the bell jar ticket deal, the number of tickets per payout amount in the deal, the licensed manufacturer's game form number, and the game serial number of the deal, which shall be identical to the game serial number imprinted on each ticket contained in such deal.]

* * *

PART 4610

Bell Jar Ticket Vending Machines in the Possession of Licensed Authorized Organizations

Section

- 4610.1 Bell jar ticket vending machines in the possession of licensed authorized organizations
- 4610.2 Coin-operated mechanical nonelectrical dispensing devices in the possession of licensed authorized organizations as of the date this section shall take effect

§ 4610.1. Bell jar ticket vending machines in the possession of licensed authorized organizations.

Bell jar ticket vending machines in the possession of a licensed authorized organization as of November 4, 1998[,] (the effective date of [these rules] this Part)[,] but not prior to August 2, 1995[,] (the effective date of [L.1995, ch.386] chapter 386 of the laws of 1995), may be registered with the commission as a qualified bell jar ticket vending machine provided such machine was obtained from a [commission licensed] commission-licensed manufacturer or [commission licensed] commission-licensed supplier and provided that the manufacturer of the bell jar ticket vending machine has been licensed by the commission as a games of chance supplier. Bell jar ticket vending machines satisfying this paragraph may be registered subject to the following provisions:

* * *

(c) Bell jar ticket vending machines in the possession of a licensed authorized organization that fail to comport with the requirements of this section must be removed from the premises of each authorized organization.

§ 4610.2. Coin-operated mechanical nonelectrical dispensing devices in the possession of licensed authorized organizations as of the date this section shall take effect.

* * *

(b) A coin-operated mechanical nonelectrical dispensing device that was designed specifically as a postage stamp machine, obtained after August 2, 1995 by licensed games of chance suppliers or licensed authorized organizations may be registered with the commission, provided the device was obtained from a [commission licensed] commission-licensed manufacturer or supplier and that the provisions of section 4610.1 of this Part are satisfied.

* * *

§ 4611.1. Coin boards.

(a) *Coin board.* [Coin board means a board used with bell jar tickets that contain various coins of United States legal tender.] A player having a bell jar ticket with a number matching a pre-designated number reflected on a coin board for a prize, as set forth in General Municipal Law section 186(3-c), or, if the number matches the pre-designated winning number for a specific coin or consolation prize, the player wins that coin or consolation prize and any cash prize value reflected on the coin board under the coin. No coin board shall be taken out of play unless at least 75 percent of total prizes have been awarded. Only United States legal tender may be awarded as prizes. The maximum [amount] amounts of a single prize permitted (the fair market value of the coin and the amount of the cash prize awarded with it, if any) [is \$500,] and the total series of prizes [shall not exceed \$3,000] are set forth in General Municipal Law sections 189(5)(a) and (c) and 189(6)(2).

(b) *Merchandise board.* [Merchandise board means a board used with bell jar tickets that contain various merchandise prizes.] A player having a bell jar ticket with a number matching a pre-designated number reflected on a merchandise board for a prize, as set forth in General Municipal Law section 186(3-c), or, if the number matches the pre-designated winning number for a specific prize or consolation prize, the player wins that prize or consolation prize. No merchandise board shall be taken out of play unless at least 75 percent of total prizes have been awarded. The maximum [amount] amounts of a single prize permitted (the fair market value of the prize) [is \$500, and] the total series of prizes [shall not exceed \$3,000] are set forth in General Municipal Law section 189(5)(a) and (c) and 189(6)(2).

(c) *Seal card.* [Seal card means a board used with bell jar tickets that contain various cash or merchandise prizes.] A player having a bell jar ticket with a number matching a pre-designated number, color or symbol reflected on a seal card signs such player's name on a line on that seal card corresponding with the number color or symbol appearing on the bell jar ticket and, upon removing the corresponding seal wins the prize specified under that seal. No seal card shall be taken out of play unless at least 75 percent of total prizes have been awarded. The maximum [amount] amounts of a single prize permitted (the aggregate of the cash prize and the fair market value of any merchandise prize) [is \$500,] and the total series of prizes [shall not exceed \$3,000] are set forth in General Municipal Law section 189(5)(a) and (c) and 189(6)(2).

§ 4611.2. Operation of coin boards, merchandise boards and seal cards.

* * *

(c) All aggregate values of cash, coin and merchandise prizes for each series of coin boards, merchandise boards and seal cards shall not exceed [\$3,000] the amount set forth in General Municipal Law section 189(6)(2).

* * *

§ 4620.10. Merchandise Wheels.

(a) *Equipment.* A wheel or wheels of variable size that have numbers, symbols or colors used to designate the winning wager and, where applicable, the type of merchandise to be awarded. The wheel has a corresponding layout.

(b) *Play.* A player places a wager on one or more betting spaces on the layout and the dealer spins the wheel. When the wheel stops, the section in which the indicator arm rests is the winning number, symbol or color.

[(b)] (c) *Wager.* The maximum wager is \$2. Merchandise shall not be wagered by a participant.

[(c)] (d) *Winning wagers.* [No cash, only] Only merchandise, and not cash, shall be awarded. No single prize shall exceed [a value of \$250] the amount set forth in General Municipal Law section 189(5)(a) and (c).

[(d)] (e) *Control sheet.* Each merchandise wheel shall have an inventory control sheet that shall indicate the cost to the licensee of each item of merchandise awarded at the wheel or, if donated, its current retail price. When [a total of \$10,000] an aggregate value set forth in General Municipal Law section 189(6)(a)(1) in prizes has been awarded at a merchandise wheel, the merchandise wheel must be closed. ([see] See section 4622.12 of this Subchapter.)[.] It [will] is not [be] necessary to file the inventory control sheet with form GC-7B.

* * *

§ 4620.19. Bell Jar.

(a) *Equipment.*

- (1) A container, jar or vending machine used for the containment of jar tickets.
- (2) Bell Jar tickets shall also include "Pull-Tabs," "Break-Opens," and any other similar-type game [comprised of] comprising tickets or cards having a number or numbers, color or colors, symbol or symbols that are covered, and that, when uncovered, may reveal that a prize shall be awarded on the basis of a designated winning number, color or symbol, or a combination of numbers, colors or symbols.
- (3) A deal shall consist of a [container(s)] container that holds (or containers that hold) all the bell jar tickets of a game bearing the same serial number as well as a flare.
- (4) A flare that is contained in the deal, and that must be [prominently] displayed prominently, sets forth the number of tickets and prizes contained in the deal, as well as the winning number or numbers, color or colors, symbol or symbols.

(b) *The play.*

- (1) A player purchases a bell jar ticket and immediately upon opening the ticket learns whether or not the player is a winner of any prize.

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- (2) The maximum wager is [\$2] set forth in General Municipal Law section 189(5)(c).
- (3) No single prize shall exceed [\$500] the amount set forth in General Municipal Law section 189(5)(a).
- (4) No aggregate prizes in any deal shall exceed [\$3,000] the amount set forth in General Municipal Law section 189(6)(a)(2).

(c) *Operation of the game.*

* * *

(2) No licensed authorized organization shall provide any information to any person [respecting] in regard to the potential winnings of bell jar tickets that would create an advantage to [said] such person.

(3) No licensee shall modify, alter, deface or otherwise change the flare, except that a licensed authorized organization may mark the winning prizes appearing on the flare as [they] such prizes are awarded.

* * *

(7) No licensed authorized organization shall assist a player in opening a purchased bell jar [ticket(s)] ticket or tickets.

(8) All prizes from the operation of [the] bell jar shall be awarded in cash, except in the case of banded tickets, merchandise boards, and seal cards, each of which [that] may award merchandise as defined in section 4622.13 of this Subchapter and such merchandise shall not exceed the maximum prize values of section 4622.12 of this Subchapter. No [ticket(s)] ticket or tickets reflecting a free play shall be sold.

* * *

(10) No prize shall be awarded to any player who [is redeeming] attempts to redeem a winning bell jar ticket that was removed from the [games of chance] games-of-chance premises.

(11) Each winning bell jar ticket shall be defaced upon redemption and retained for a period of [six months] one year.

(12) Bell jar tickets may [only] be sold only on the premises of the licensed authorized organization and the premises in which the organization conducts licensed bingo occasions and [games of chance] games-of-chance license periods and as otherwise may be authorized by General Municipal Law section 189(13).

[(13) Every licensed authorized organization shall retain all remaining unsold bell jar tickets for inspection by the commission for one year following the date of last sale.]

[(14)] (13) More than one deal may be sold simultaneously during a license period.

[(15)] (14) No authorized organization shall sell, distribute or loan any bell jar tickets to any other authorized organization.

[(16)] (15) Complete deals may be commingled in one receptacle or bell jar ticket vending machine, provided the deals are identical as to the type of game, game form number, number of tickets per game, game ticket price and the amount and denomination of prizes. No unsold portion of a deal may be commingled with any other deal.

[(17)] (16) Bell jar ticket deals of different game form numbers may be inserted into and dispensed from the same bell jar ticket vending machines provided each game form numbered deal is assigned a separate stacking [column(s)] column (or columns) and [holder(s)] holder (or holders) and each stacking column or holder is clearly labeled to identify to the purchaser the type and game form number of each bell jar ticket to be dispensed from that stacking column or holder. Bell jar ticket deals with different game form numbers shall not be commingled in any stacking column or holder.

[(18)] (17) No deal shall be placed in play unless the serial number of such deal corresponds to the serial number printed on each ticket, the flare and invoice.

[(19)] (18) No deal shall be taken out of play once such deal has been offered for sale unless at least 75 percent of total prizes have been awarded.

[(20)] (19) No deal shall be placed in play unless it has been purchased from a licensed supplier.

[(21)] (20) Separate cash banks shall be maintained for each deal or combination of deals placed in play in order to determine each deal's profit or loss.

* * *

§ 4620.22. Raffles.

(a) *Equipment.* The equipment used in the conduct of raffles and the method of play shall ensure that each and every ticket to participate shall have an equal opportunity to be drawn as a winner.

(1) Raffle tickets, with the exception of the two-part "admission-style" tickets [utilized] used in the game commonly known as a "50/50 raffle," shall reflect the following:

* * *

(b) [*The play*] *Play.*

(1) No single prize shall exceed the [sum of \$100,000] amount set forth in general Municipal Law section 189(5)(b).

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(2) The aggregate fair market value of all prizes to be offered or awarded by a licensee in raffles in any one calendar year (license period) shall not exceed [\$2,000,000] the amount set forth in General Municipal Law section 189(8).

(3) The method of drawing and determining the winning [ticket(s)] ticket (or tickets) shall be [clearly] announced clearly and described prior to drawing a ticket.

* * *

(6) Raffle tickets may [also] be sold to the public [outside the premises of an authorized organization or an authorized games of chance lessor or in municipalities that have passed a local law, ordinance or resolution in accordance with sections 187 and 188 of the General Municipal Law that are located in the county in which the municipality issuing the license or the municipality in which the organization is authorized to conduct raffles pursuant to subdivision (c) of section 4601.1 of this Chapter is located, and in the counties that are contiguous to the county in which the municipality issuing the raffle license or in which the organization authorized to conduct raffles pursuant to subdivision (c) of section 4601.1 of this Chapter is located, provided the licensee or organization authorized to conduct raffles pursuant to subdivision (c) of section 4601.1 of this Chapter has received written approval, on a form prescribed by the commission, from each municipality to sell raffle tickets therein and provided that no sale of raffle tickets shall be made more than 180 days prior to the date scheduled for the final drawing of the winning raffle ticket(s)] in locations as authorized by General Municipal Law section 189(13)(b). An authorized organization that wishes to sell raffle tickets outside the premises of such organization or conduct a raffle drawing outside the premises of such organization shall notify the commission of such intent to make such sales or conduct such drawing (or both). Such notice shall be made no later than 45 days before sales of such raffle are proposed to commence, in order to enable the commission to notify the affected municipalities and give such municipalities the opportunity to object to such sales or such drawing. After the commission gives notice (which may be given by electronic means) to the affected municipalities, a municipality shall provide the commission notice of an objection, if any, no later than 20 days before the date such sales are proposed to commence or such drawing is proposed to be conducted.

(7) Internet and mobile device sales.

(i) No entity, other than an authorized organization to which the commission has issued a games of chance identification number and a raffle license, if applicable pursuant to General Municipal Law section 190-a(1), is permitted to sell raffle tickets through the internet or a mobile device.

(ii) No sale of a raffle ticket though an internet or a mobile device platform may occur unless both the purchaser and seller of such ticket are each located, at the moment of purchase, in a municipality in this State in which the sale of such tickets is authorized as set forth in General Municipal Law section 189(13). Locations shall be determined by the physical location of each of the purchaser and seller and not the purchaser or seller's usual address. An authorized organization's internet or mobile device raffle sale platform shall block any attempts to purchase a raffle

ticket from a location other than those authorized by General Municipal Law section 189(13).

(iii) No sale of a raffle ticket though an internet or a mobile device platform may occur unless the purchaser or such ticket has first established a raffle ticket account with the authorized organization conducting such raffle. Such account shall include, for each purchaser:

- (a) the purchaser's legal name;
- (b) the purchaser's date of birth;
- (c) an account number unique to such purchaser;
- (d) the purchaser's address;
- (e) the purchaser's electronic mail address; and
- (f) the purchaser's telephone number.

(iv) No authorized organization shall outsource or otherwise delegate to another entity or person, including, without limitation, a third-party fundraising entity, the conduct of a raffle through the internet or mobile device.

(v) Each authorized organization that proposes to sell a raffle ticket for a specifically identified raffle through an internet or a mobile device platform shall seek commission approval to conduct such raffle. To obtain such approval, an authorized organization shall, not less than 60 days before offering any tickets for sale on such platform:

- (a) supply the commission with a complete list of authorized municipalities in which the authorized organization intends to sell tickets for such raffle;
- (b) demonstrate to the satisfaction of the commission, which may be done by providing evidence of competent native or third-party geolocation procedures, that such organization has geolocation technology in place to ensure that each purchaser and seller of a ticket is located within the boundaries of one of the municipalities that has authorized the sale of such raffle tickets, as set forth in General Municipal Law section 189(13);
- (c) submit procedures to prevent minors from purchasing a raffle ticket through the authorized organization's internet or mobile application platform. An authorized organization shall implement any changes to such procedures as the commission may direct at any time. Such plan, at a minimum, shall include the following components:
 - (1) specification of parental control procedures to allow parents and guardians to exclude persons under the age of 18 from entering a raffle through the authorized organization's internet or mobile device platform.

The authorized organization shall display conspicuously the specific steps a parent or guardian may take to implement parental controls;

(2) detailed explanation of the steps taken to prevent persons under the age of 18 from purchasing a raffle ticket through the authorized organization's internet or mobile device platform. The authorized organization shall explain what types of native or third-party age verification procedures are implemented to verify that each person entering a raffle with such authorized organization's internet platform or mobile application is not under the age of 18. The authorized organization shall explain the mechanism or mechanisms used to identify and deactivate accounts or purchases created or used by minors; and age verification and identification procedures to exclude persons under the age of 18 from creating an account or purchasing a raffle ticket on the authorized organization's internet platform or mobile application;

(3) procedures used to identify and deactivate accounts created or used by persons under the age of 18 and to exclude such persons from all raffles offered through such authorized organization's internet and mobile device platforms; and

(4) procedures to ensure that persons under the age of 18 do not receive promotional materials that relate to raffles held on authorized organization's internet and mobile device platforms;

(d) submit procedures to protect the privacy of ticket purchasers on such internet or mobile device platforms; and

(e) submit procedures to protect the security of personal information of ticket purchasers on such internet or mobile device platforms from unauthorized disclosure.

(vi) Each authorized organization that the commission authorizes to sell raffle tickets for a specifically identified raffle through an internet or a mobile device platform shall have an ongoing duty to inform the commission of any material change to any of the procedures submitted pursuant to subparagraph (v) of this paragraph or any material change in the anticipated performance of geolocation technology as described to the commission.

(vii) The commission may, in its discretion, revoke any approval given pursuant to this paragraph to conduct a raffle through an internet or mobile device platform if the commission has cause to believe that the conditions required by General Municipal Law section 189(16) will not be or are not being satisfied or are at significant risk of not being satisfied.

(viii) The commission may, in its discretion, declare an authorized organization ineligible to conduct raffle ticket sales though an internet or mobile device platform for a period of time, or for an indefinite time, if such authorized organization fails

to comply with this paragraph or the conditions required by General Municipal Law section 189(16).

[(7)] (8) No ticket shall be sold in conjunction with any raffle, including raffles in which winning tickets are scheduled to be drawn on multiple dates, more than 180 days prior to the date scheduled for the drawing of the last ticket in that raffle.

[(8)] (9) All raffle tickets, with the exception of the two-part “admission-style” tickets used in the game commonly known as a “50/50 raffle,” shall be sold at a uniform price per ticket, unless the discount offered is based on the selling price per book of tickets and the price per single ticket and the discounted price per book of tickets are printed on each ticket.

[(9)] (10) The value of merchandise to be awarded as a raffle prize shall be the fair market value of the merchandise at the time of submission of an application or verified statement for a raffle license.

[(10) Purchasers of raffle tickets need not be present at the raffle drawing to win.]

(11) Alcoholic beverages may be sold and consumed in locations where raffle tickets are sold and raffle drawings are conducted.

[(12) Alcoholic beverages shall not be awarded as a raffle prize.]

[(13)] (12) No commission, salary, compensation, reward or recompense shall be paid or given to any person for the sale or assisting with the sale of raffle tickets.

[(14)] (13) Raffle tickets shall be sold by a member of an authorized organization licensed to conduct raffles or authorized to conduct raffles pursuant to [section 4601.1(c)] subdivision (c) of section 4601.1 of this [Title] Chapter and may also be sold by any person with a blood relationship or affinity with a member of an authorized organization licensed to conduct a raffle.

* * *

§ 4620.23. Search for the Queen of Hearts.

(a) *Equipment.* A series of two-part, sequentially numbered raffle tickets; [two] a raffle ticket [drums] drum or [receptacles] receptacle; a standard deck of 52 playing cards plus two jokers; and a game board onto which 54 playing cards can be placed facedown, side-by-side[,] and held securely by a locking, transparent cover.

(b) [The play] Play.

(1) The licensed authorized organization shall offer a series of two-part, sequentially numbered raffle tickets for sale at a price determined by the licensee. Each player shall write such player’s name and telephone number on the licensee’s part of the ticket, which shall be deposited into a raffle ticket drum or receptacle. The purchasing player shall retain the other part of the ticket as a receipt for verification purposes. All

monies collected from the sale of raffle tickets, and only such monies, shall be designated the grand prize pool.

(2) The deck of facedown playing cards shall be [thoroughly] shuffled thoroughly by a licensed organization's member in charge or assistant to the member in charge and, without revealing any of the faces, placed facedown, side-by-side, onto the game board. The transparent game board cover shall be closed and locked to secure the cards in place.

(3) One raffle ticket shall be drawn each week from among all of the tickets sold for each drawing, except for the first week and the 26th week (if necessary), when three drawings [shall] may be held. If three drawings are held, each of the three winners of the drawings shall search in the order in which such winners ticket was selected.

(4) The [participant(s)] participant (or participants) holding the winning ticket [stub(s)] stub (or stubs) shall be declared the [winner(s)] winner (or winners) of each drawing and shall be entitled to "Search for the Queen of Hearts."

* * *

(8) If the card selected is not the queen of hearts, that card shall be defaced by drawing a diagonal line across its face in ink[;]. [the] Such card shall be returned to the game board face-up[;]. [the] The transparent, locking cover securing the cards shall be locked by a licensed organization's member in charge or assistant to the member in charge[;]. [and] Then, that player shall be [immediately] awarded immediately a cash prize valued [according to the following schedule] in an amount that is at least equal to the following odds:

<i>Card Drawn</i>	<i>Payout [Odds] odds</i>
Any 2, 3, 4, or 5	[At least 4 – 1] <u>4:1</u>
Any 6, 7, 8, or 9	[At least 6 – 1] <u>6:1</u>
Any 10, jack or king	[At least 8 – 1] <u>8:1</u>
Any ace	[At least 10 -1] <u>10:1</u>
Any joker	[At least 15 – 1] <u>15:1</u>
Any queen other than hearts	[At least 20 – 1] <u>20:1</u>

* * *

(11) The licensee shall retain the remaining 40 percent of the grand prize pool as raffle profit and shall secure those funds for deposit into the special games of chance or raffle checking account (if applicable)[,] or other bank account.

* * *

[§ 4621.1. Games of chance currency.] [Repealed]

[Licensed authorized organizations may, in their discretion, use legal tender or a form of chip authorized by the commission in the conduct of games of chance.]

* * *

§ 4622.12. Maximum value of prizes offered.

[No single prize in any casino-type game of chance shall exceed the sum or value of \$300. In the game of chance known as merchandise wheels, no single prize consisting of merchandise shall exceed a value, defined in section 4622.13 of this Part, of \$250. In the game of chance known as bell jars, no single prize shall exceed the sum of \$500. In the game of chance known as raffle no single prize shall exceed the sum of \$100,000. Except for merchandise wheels, bell jars and raffles, no series of prizes on any one occasion shall aggregate more than \$400 for each single type of game of chance when the licensed authorized organization conducts five single types of games of chance during any one license period. Except for merchandise wheels, bell jars and raffles, no series of prizes on any one occasion shall aggregate more than \$500 for each single type of game of chance when the licensed authorized organization conducts less than five single types of games of chance during any one license period. Except for the limitations on the sum or value for single prizes and series of prizes for each type of game of chance, no limit shall be imposed on the total number, sum or value of prizes awarded to any one participant during any occasion or any license period. No single wager shall exceed the amount designated for each type of game, as set forth in Part 4620 of this Subchapter. In the case of merchandise wheels, no series of prizes consisting of merchandise shall exceed the actual value of \$10,000 during the successive operations of any one merchandise wheel. In the case of bell jars, no series of prizes shall exceed the sum of \$3,000 during the successive operations of any one bell jar deal. In the case of raffles, the series of prizes shall not exceed the sum of \$500,000.] The maximum sums or values for particular forms of games of chance are set forth in General Municipal Law sections 189(5), 189(6) and 189(8). One or more signs limiting the wager to the amount designated for each type of game[, as set forth in Part 4620 of this Subchapter,] shall be [prominently] displayed prominently in each playing area. In the case of bell jars, the applicable [flare(s)] flare or flares shall be displayed in each playing area.

* * *

§ 4622.20. Persons prohibited as players.

No licensee shall permit any person who has participated or assisted in the management or conduct of the games of chance license period to participate as a player [or purchase bell jar tickets] at any time during such license period.

§ 4622.21. Cashing of checks prohibited.

No licensee, its members or agents, shall cash any check out of games of chance funds or extend credit to a person to participate in the playing of any games of chance, other than accepting a personal check as authorized by General Municipal Law section 195-d(3).

§ 4622.22. Operation of bank.

(a) Except in the case of merchandise wheels, raffles, coin boards, merchandise boards, seal cards and bell jars, the licensed authorized organization shall, at the start of each type of game of chance, provide a bank consisting of cash or chips in an amount not exceeding [\$400 when the licensed authorized organization conducts five single types of games of chance, or \$500 when the licensed authorized organization conducts less than five single types of games of chance during any one license period] the amounts set forth in General Municipal Law section 189(8). To each bank shall be added all the players' losses, and from each bank shall be deducted all players' winnings. When the bank for any one type of game is exhausted, the conduct of [said] such type of game shall cease and terminate. Where more than one location (table or booth) is used for the conduct of a single type of game of chance, the starting bank shall be divided among the different locations. Within the operation of any single type of game of chance, the bank of any one location may be used to supplement the bank of any other location of the same type of single game of chance.

(b) In the case of merchandise wheels, the licensed authorized organization may for each wheel award merchandise the total value of which shall not exceed [\$10,000 for each merchandise wheel] the amount set forth in General Municipal Law section 189(6)(a)(1). In the case of bell jars, coin boards, merchandise boards and seal cards, the licensed authorized organization may, for each deal, award prizes the total value of which shall not exceed [\$3,000 for each deal] the amount set forth in General Municipal Law section 189(5)(a).

(c) The maximum amount of the series of prizes to be awarded for each single type of game of chance shall be specified in the application for a license (form GC-2) and the license (form GC-5), which shall be [conspicuously] displayed conspicuously.

§ 4622.23. Sale and consumption of alcoholic beverages.

[Beer] If otherwise permitted by the Alcoholic Beverage Control Law or other applicable law, beer may be offered for sale and consumed during the conduct of games of chance in games of chance premises. Nothing herein shall be construed to limit the offering for sale and consumption of any other alcoholic beverage in areas other than the games of chance premises, or the sale of any other alcoholic beverage in premises where only the game of chance known as bell jar, coin board, merchandise board, seal card and raffles are conducted, if otherwise permitted by the Alcoholic Beverage Control Law or other applicable law. One or more signs setting forth the restrictions of this section shall be [prominently] displayed prominently in each playing area.

§ 4622.25. Qualifications of members in charge and assistants.

[No] As set forth in General Municipal Law sections 189(10) and 195-c,

(a) no person shall participate in the management of any game of chance unless such person [has been] is a bona fide member of the licensed authorized organization [for at least one year prior to the date of such license period.]; and

(b) [No] no person shall participate in the operation of any game of chance unless such person [has been] is a bona fide member of the licensed authorized organization or its affiliate or auxiliary [for at least one year prior to such license period].

§ 4622.26. Advertising games of chance.

A licensee may advertise the conduct of games of chance [to the general public by means of newspaper, circular, handbill and poster, and by one sign not exceeding 60 square feet in area, which may be displayed on or adjacent to the premises owned or occupied by a licensed authorized organization; and when an organization is licensed to conduct games of chance on premises of an authorized games of chance lessor, one additional such sign may be displayed on or adjacent to the premises in which the games are to be conducted. Additional signs may be displayed upon any firefighting equipment belonging to any licensed authorized organization that is a volunteer fire company, or upon any equipment of a first-aid or rescue squad in and throughout the community served by such volunteer fire company or such first-aid or rescue squad, as the case may be. All advertisements shall be limited to the description of such event as "Games of Chance" or "Las Vegas Night," the name of the authorized organization conducting such games, the license number of the authorized organization as assigned by the clerk or department, and the date, location and time of the event] as provided for in General Municipal Law section 195-e. No advertising shall include any misleading information or representations.

* * *

§ 4624.1. Financial statement form.

(a) The financial statement of games of chance operations required by ordinances or local laws, State laws and this Chapter shall be on form GC-7, as prescribed by the commission. The licensee shall execute and file the original of the report with the clerk or department, a copy with the commission, and when applicable, a copy with the chief fiscal officer of the county, within seven days after the conclusion of each license period. The licensee shall retain a copy of the report for such licensee's permanent records. When [the] an authorized organization has been licensed to sell bell jar tickets, coin boards, merchandise boards and seal cards, the authorized organization shall, within 15 days after the end of each calendar quarter during which such tickets have been purchased and sold by the licensee, prepare and file a statement of such information on form GC-7Q, as prescribed by the commission. The licensee shall execute and file the original of the quarterly report with the commission. The licensee shall retain a copy of each report for such licensee's permanent records. Within 30 days after the conclusion of an occasion during which [a raffle was conducted] an authorized organization derived at least \$30,000 in net raffle proceeds from all raffles conducted during the calendar year, the authorized organization conducting such raffle or raffles and the members in charge of such raffle or raffles, and, when applicable, the authorized games of chance lessor that rented premises therefor, shall each furnish to the clerk or department and the commission a statement of such information on form GC-7R, as prescribed by the commission, subscribed by the member in charge and affirmed by such member as true, under the penalties of perjury, showing the number of tickets printed, the number of tickets sold, the prize, and the number of tickets returned to or retained by the authorized organization as unsold, a

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description and statement of the fair market value for each prize actually awarded, the amount of the gross receipts derived therefrom, each item of expenditure made or to be made other than prizes, the name and address of each person to whom each such item of expense has been paid, or is to be paid, a detailed description of the merchandise purchased or the services rendered therefor, the net proceeds derived from the raffle at such occasion, the use to which the proceeds have been or are to be applied and shall be the duty of each licensee to maintain and keep such books and records as may be necessary to substantiate the particulars of each such statement, provided however, where the cumulative net proceeds or net profits derived from the conduct of a raffle or raffles are less than \$30,000 during any one occasion, in such case, the reporting requirement shall be satisfied by the filing within 30 days of the conclusion of such occasion a verified statement on a form prescribed by the commission attesting to the amount of such net proceeds or net profits and the distribution thereof for lawful purposes with the clerk or department and a copy with the commission. The licensee shall retain a copy of such statement for its records. Any authorized organization required to file an annual report with the Secretary of State pursuant to article 7-A of the Executive Law or the Attorney General pursuant to article 8 of the Estates, Powers and Trusts Law shall include with such annual report a copy of the statement required to be filed with the clerk or department.

(b) Notwithstanding the filing requirements set forth in this Part, an authorized organization [that has met the self-determination requirements of subdivision (c) of section 4601.1 of this Chapter] may conduct a raffle without complying with such filing requirements, provided, that such organization shall derive net proceeds from raffles in an amount less than \$5,000 during the conduct of one raffle and shall derive net proceeds from raffles in an amount less than [\$20,000 during one calendar year] the amount set forth in General Municipal Law section 190-a(1). Such authorized organizations are not relieved of any other financial reporting and recordkeeping requirements of local, State or Federal laws or rules [regarding] in regard to the receipt and expenditure of monies, including [but not limited to] without limitation the Not-For-Profit Corporations Law.

* * *

§ 4624.3. Additional license fee.

(a) Upon the filing of the financial statement of games of chance operations (form GC-7) and attachment, the licensee shall pay to the clerk or department or, where applicable, the chief fiscal officer of the county, as [an] the additional license fee authorized by General Municipal Law section 195-f(4), a sum in the amount of five percent of the reported net proceeds, if any, for the license period covered by such statement. In the case of raffles, the licensee, upon filing the financial statement of raffles operations, shall pay to the clerk or department or, where applicable, the chief fiscal officer of the county, as an additional license fee authorized by General Municipal Law section 195-f(4), a sum in the amount of two percent of the reported net proceeds that exceed \$30,000 from all raffles conducted during the calendar year, if any, for that portion of the license period covered by such statement.

(b) Reporting requirements for raffles are as set forth in General Municipal Law section 195-f(2). [Where the cumulative net proceeds or net profits derived from the conduct of a raffle or raffles are less than \$30,000 during any one occasion, in such case, the reporting requirement shall be satisfied by the filing within 30 days of the conclusion of such occasion a verified statement on a form prescribed by the commission attesting to the amount of such net proceeds or net profits and the distribution thereof for lawful purposes with the clerk or department and a copy with the commission.

(c) As set forth in General Municipal Law section 195-f(4), [No] no fee shall be required where the net proceeds or net profits derived from the conduct of a raffle or raffles are less than \$30,000 during any one occasion.

(d) An organization that has filed a verified statement with the clerk or department and the commission attesting that such organization shall derive net proceeds or net profits from raffles in an amount less than \$30,000 during one occasion or part thereof that in fact derives net proceeds or net profits [exceeding] of at least \$30,000 during any one occasion or part thereof shall be required to obtain a license as required by General Municipal Law sections 190 and 190-a and this Subchapter and shall be subject to the reporting requirements and additional license fees required by General Municipal Law 195-f and this Part.

(e) In the case of bell jars, the licensee, upon filing financial statements of bell jar operations (form GC-7Q) with the commission shall also tender to the commission a sum in the amount [of five percent of the net proceeds as defined in this Part, from the sale of bell jar tickets, if any, for that portion of license period covered by such statement. For the purposes of this section, net proceeds shall mean the difference between the ideal handle from the sale of bell jar tickets, coin boards, merchandise boards and seal cards, less the purchase price to the licensee of the bell jar tickets, coin boards, merchandise boards and seal cards and the amount of money paid out in prizes. Additionally, a credit shall be permitted against the net proceeds fee tendered to the commission for unsold tickets of the bell jar deal as long as the unsold tickets have the same serial number as the tickets for which the fee is rendered. Such unsold tickets must be kept on file by the selling organization for inspection by the commission for a period of one year following the date upon which the relevant financial statement was received by the commission] set forth in General Municipal Law section 195-q.

* * *

§ 4624.8. Special games of chance, raffle and bell jar account.

(a) For games of chance, bell jar, and for raffle ticket proceeds that exceed \$30,000 per calendar year, each licensee must maintain a regular checking account as its games of chance account, which shall be designated the "special games of chance account." Into this account shall be deposited all and only monies received from admission charges, total profits from games other than merchandise wheels, total cash receipts from merchandise wheels, receipts from the sale of raffle tickets and bell jar tickets, coin boards, merchandise boards and seal cards, and cash bank if such cash bank monies were initially withdrawn from this account. Receipts from the sale of food and refreshments or alcoholic beverages shall not be deposited into this account. Deposits

shall be made intact and no later than the next business day following the date of a games of chance license period, excluding raffles bell jars (which shall include coin boards, merchandise boards and seal cards), deposits for which shall be made no later than Wednesday of each week, except when such day is a holiday, in which case said deposit shall be made on the next business day. In the case of bell jars and raffles, each licensee is encouraged to maintain a separate regular checking account which shall be designated the "special raffle account" or "special bell jar account." Into this account shall be deposited all and only monies derived from the sale of raffle tickets or bell jar tickets, respectively. Deposits shall be made no later than Wednesday of each week, except when such day is a holiday, and in that case [said] such deposit shall be made on the next business day.

(b) In cases where licensed authorized organizations have submitted a verified statement form GCVS-1 in lieu of a raffle license application, [and the licensee in fact does not derive raffle proceeds in excess of \$30,000 in a single occasion, the member in charge shall declare, under the penalties of perjury, on the verified statement of raffle operations GCVS-2 required under section 4624.1 of this Part, that] the proceeds [have been] shall be deposited into a bank account maintained solely by the authorized organization to be dispersed only for lawful expenditures permitted under section 4624.21 of this Part.

§ 4624.9. Method of withdrawal.

Except for the electronic transfer of funds to the Commission, other State, local and Federal governmental entities in compliance with the lawful expenditures set forth in section 4624.21 of this Part; operating expenses of the authorized organization such as utilities, including light, heat, power and water, telephone, mortgages and payments to licensed games of chance suppliers, [All] all monies withdrawn from the "special games of chance account," "special raffle account" or "special bell jar account" shall be only by checks having preprinted consecutive numbers, signed by at least two duly authorized officers of the licensee and made payable to a specific person, firm, partnership or corporation with the purpose specified on the check stub; and at no time shall a check be made payable to cash. All checks must be accounted for in the appropriate part of the financial statement of games of chance operations (form GC-7), financial statement of raffle operations (form GC-7R) or financial statement of bell jar operations (form GC-7Q), including voided checks.

* * *

§ 4624.17. Expenditure of funds after cessation of games of chance.

An organization that has ceased to conduct games of chance for any reason, and has unexpended games of chance funds, shall:

- (a) disburse [said] such funds for lawful purposes within a period of one year after the cessation of the conduct of games of chance; or
- (b) disburse [said] such funds in accordance with a plan of expenditure approved in advance by the commission.

Upon final disbursement of such funds, in the case of bell jar, each organization shall submit to the commission a final quarterly statement of bell jar operations (GC-7Q) documenting the final disposition of such funds. In the case of raffles with net proceeds of at least \$30,000 from all raffles conducted during the calendar year, each organization shall submit to the commission and to the municipal clerk a final financial statement of raffle operations (GC-7R) documenting the final disposition of such funds. In the case of casino-type games of chance, each organization shall submit to the commission and to the municipal clerk a final financial statement of games of chance operations (GC-7) documenting the final disposition of such funds. This provision applies notwithstanding the requirements of section 4624.1 of this Part.

* * *

§ 4624.21. Lawful expenditures.

* * *

(c) *Guidelines for all other expenditures.* All expenditures must be reasonable, justifiable and directly related to carrying out one or more of the licensee organization's lawful purposes, as defined in [section 186, subsection 5 of the] General Municipal Law section 186(5).

(1) An organization [exclusively] engaged exclusively in any of the [above enumerated "worthy causes"] lawful purposes set forth in General Municipal Law section 186(5) does not need prior written approval from the commission [regarding] in regard to expenses directly related to carrying out one or more of [its] such organization's lawful purposes, with the exception of those expenses listed in paragraph [(4)] (3) of this subdivision.

[(2) Regarding certain types of licensee organizations, such as fraternal and service organizations, the commission requires that at least one third of the net profits derived from games of chance be expended for the above enumerated "worthy causes" before any games of chance funds may be disbursed for the licensee organization's operating expenses. This one third donation rate is calculated on a calendar-year basis and any deficiency will be cumulative. It is incumbent upon each licensee to periodically review its contribution record. If the provisions of this Subtitle are not strictly adhered to, the licensed organization shall be prohibited from disbursing any of its games of chance funds for other than "worthy causes" without obtaining the prior written approval of the commission.]

[(3)] (2) Expenditures requiring no written approval. The [following regulations apply to the] operating expenses of [licensed fraternal and service] authorized organizations set forth in this paragraph do not require written commission approval, unless as otherwise set forth in the applicable subparagraph of this paragraph:

(i) materials and labor for repairs that are necessary for normal maintenance, including electrical, roofing, heating, hardware, paint, lumber, etc. However, such expenditures are limited to \$10,000 in the aggregate in a calendar year. Such

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expenditures, when in excess of \$10,000, require prior written permission from the commission;

- (ii) janitorial and custodial salaries, including all payroll taxes;
- (iii) supplies, such as cleaning materials, brooms, shovels, floor wax, paper supplies, etc.;
- (iv) utilities, including light, heat, power and water;
- (v) rubbish removal;
- (vi) insurance, including fire, workers' compensation, public liability, burglary, robbery and property damage;
- (vii) real estate taxes;
- (viii) snow removal charges;
- (ix) telephone charges;
- (x) printing and mailing charges; and
- (xi) legal, accounting fees or other professional fees not exceeding \$5,000 per calendar year.

[(4)] (3) Expenditures requiring prior written approval [(submit an "Application for Permission to Disburse Net Proceeds of Games of Chance" GC-317, to commission's office)]. An authorized organization shall submit an Application for Permission to Disburse Net Proceeds of Games of Chance (GC-317) to the commission when requesting approval of certain expenses as set forth in this paragraph. Organizations of veterans shall file with the commission a copy of the minutes of the meeting of the membership authorizing any of the expenditures [below] set forth in this paragraph, in lieu of filing a GC-317 form:

- (i) mortgages;
- (ii) rent paid by licensee organization for use of property for its activities;
- (iii) new buildings, additions, renovations or repairs in excess of \$10,000 per calendar year;
- (iv) purchase of air conditioning units, furniture, furnishings, office and kitchen equipment and motor vehicles;
- (v) repair, maintenance and acquisition of parking lots;
- (vi) salaries, other than those authorized in paragraphs (3) of subdivision (a) and (5) of subdivision (b) of this section and subparagraph (ii) of paragraph [(3)] (2) of this subdivision; and

(vii) legal, accounting or other professional fees exceeding \$5,000 per calendar year.

(d) *Disapproved expenditures.* All types of [licensee] authorized organizations may not use games of chance funds for the [following] expenditures set forth in this subdivision, except that [organizations] an organization of veterans, in strict compliance with such organization's charter and bylaws, shall file with the commission a copy of the minutes of the meeting of membership authorizing any of the expenditures [below] set forth in this subdivision:

- (1) entertainment or social activities for the benefit of members of licensee organization, its auxiliary or affiliate. At all times it should be borne in mind that the use of games of chance funds for the exclusive benefit of members of the licensee organization, its auxiliary or affiliate is unlawful and prohibited;
- (2) welfare, sick or death benefit funds for members and families;
- (3) dues and assessments;
- (4) gifts or loans to members of licensee organization, its auxiliary or affiliate;
- (5) convention expenses for delegates of licensee organization, its auxiliary or affiliate;
- (6) any and all expenses connected with bars and the dispensing of alcoholic beverages;
- (7) [TV] television or other amusement devices for use of the licensee organization, its auxiliary or affiliate;
- (8) expenses and salaries connected with other fundraising activities, such as the operation of food service facilities and concessions; or
- (9) tickets purchased from profit or not-for-profit organizations, such as raffle or theatre tickets, for use by members.

* * *

§ 4800.1. Definition of terms.

[As used in this Chapter, the following terms shall have the following meanings:] Unless the context indicates otherwise, the following definitions and the definitions set forth in General Municipal Law section 476 are applicable throughout Subchapters C, D and E of this Chapter:

* * *

(h) *Early bird*, also known as *share the wealth* or *split pots*, [means a special game that is conducted no more than twice during any single licensed occasion in which a fixed percentage of the receipts from the sale of early bird opportunities is awarded as a prize. The prize awarded in the conduct of an early bird game, which cannot exceed 75 percent

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of the sales receipts, is not subject to the prize limitations imposed by subdivisions 5 and 6 of section 479 and paragraph (a) of subdivision 1 of section 481 of the General Municipal Law, or section 4820.25 of this Chapter. The price for a one-on opportunity to participate in any early bird game shall not exceed \$1.] has the meaning set forth in General Municipal Law section 476(11-a). Early bird opportunities bearing more than one face-card may be priced at the discretion of the licensed authorized organization, [provided one-on] so long as 1-on early bird cards are offered for sale simultaneously at a price of \$1[.] or less.

* * *

(l) *Governing body or municipal governing body* means the board or body in which the powers of a political subdivision as a body corporate, or other, are vested. Where the governing body or municipal governing body has delegated authority, pursuant to [section 498 of the] General Municipal Law section 498, to an officer or officers, the words governing body or municipal governing body shall apply to the officer or officers in respect to the powers and duties delegated.

* * *

[(o) *Lawful purposes* means one or more of the following causes, deeds or activities:].

[(1) those that shall benefit needy or deserving persons indefinite in number by enhancing their opportunity for religious or educational advancement, by relieving them from disease, suffering or distress, or by contributing to their physical well-being, by assisting them in establishing themselves in life as worthy and useful citizens, or by increasing their comprehension of and devotion to the principles upon which this nation was founded and enhancing their loyalty to their governments;]

[(2) those that shall initiate, perform or foster worthy public works or shall enable or further the erection or maintenance of public structures;]

[(3) the foregoing shall not, however, be construed as authorizing the erection, acquisition, improvement, maintenance or repair of any property, real or personal, beyond that portion of the use or occupancy thereof that is determined by the commission to be devoted for one or more of the purposes set forth in this subdivision;]

[(4) those that shall otherwise lessen the burdens borne by government or that are voluntarily undertaken by an authorized organization to augment or supplement services that government would normally render to the people;]

[(5) those that shall initiate, perform or foster the provisions of services to veterans by encouraging the gathering of such veterans and shall enable or further the erection or maintenance of facilities for use by such veterans that shall be used primarily for charitable or patriotic purposes or the purposes that shall be authorized by a bona fide organization of veterans, provided however that such proceeds are disbursed in accordance with the rules and regulations of the commission.]

[(p) Limited] (o) In the definition of *limited period bingo* [means the conduct of bingo by a licensed authorized organization, for a period of not more than 7 or 12 consecutive days in any one year, at a festival, bazaar, carnival or similar function conducted by such licensed authorized organization. No authorized organization licensed to conduct limited period bingo shall be otherwise eligible to conduct a regular bingo occasion in the same calendar year] in General Municipal Law section 476(10), the same year refers to the same calendar year.

[(q)] (p) Occasion means a single licensed period in which an aggregate of prizes not to exceed [\$3,000] the amount set forth in General Municipal Law section 481(1)(a) is awarded in a series of at least 10 bingo games (or a combination of bingo games and subparts of multiple-part bingo games in which 10 separate prizes are awarded), [provided] so long as not more than 35 successive bingo games are played. During double header and triple header sessions, at least one of the occasions shall [be comprised of] comprise 10 bingo games (or a combination of bingo games and subparts of multiple-part bingo games in which 10 or more separate prizes are awarded). A licensed authorized organization may offer fewer than 10 games per occasion during multiple successive occasions if at least one of the session's occasions [is comprised of] comprises at least 10 bingo games. In the case of limited period bingo, the series of games played during an occasion shall not exceed 60 in number.

[(r)] (q) Opportunity means a reusable card or a disposable sheet of paper bearing at least one face-card entitling a player to participate in a game or games of bingo. For the purposes of this section, a card approved by the commission for use in the game supercard, player select or quick bingo shall be deemed an opportunity to participate in such games. Face-cards shall be printed on only one side of an opportunity and the backside of such opportunities shall be blank. All opportunities other than hard-boards, supercards and opportunities issued for use with electronic bingo aids shall be marked by the players with indelible ink daubers.

[(s)] (r) Package means a group of cards or sheets of bingo face-cards collated to form a package of opportunities. Each of the cards or sheets [comprising] making up such package shall be different in appearance from all other cards or sheets [comprising] within such package and shall represent, by color and appearance, an opportunity to participate in a specific bingo game. The word *up* refers to the number of cards or sheets [comprising] contained in such a package and is preceded by the number of such cards or sheets. For example, a *six-up* (or 6-up) is a group of opportunities [comprised] made up of six different colored cards or sheets collated to form a single package.

[(t)] (s) Player select means a bingo game in which a player, at least 15 minutes prior to the commencement of that game, purchases a blank player select card and enters the numbers of his or her choice in the blank spaces on such card. Each number shall be between 1 and 75, inclusive, and no number shall be repeated on the same player select card. Prizes are awarded to those players whose selected numbers match those drawn by the licensed authorized bingo operator during a designated player select game, in accordance with section 4820.49 of this Chapter.

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[(u)] (t) *Pre-drawn bingo* means a bingo game conducted by a licensed authorized organization in accordance with section 4820.51 of this Chapter, in which a pre-determined number of bingo balls are pre-picked at random from the receptacle. Pre-drawn bingo games shall be conducted using only commission-approved disposable, tear-open or sealed bingo opportunities, which shall be constructed in such a manner, and of such material, so as to prevent the viewing of the numbers printed thereon until the purchasing player opens the opportunity by tearing off perforated edges or otherwise breaking a secured seal enclosing the face-card. All bingo opportunities used in pre-drawn games shall be marked with standard indelible ink daubers. The pre-drawing of the numbers shall begin not more than 45 minutes prior to the start of the game[,] and shall not begin unless there are a number of players equal to at least 10 percent of the bingo seating capacity present to verify the integrity of the pre-drawing of the numbered balls.

[(v)] (u) *Prize* means the dollar amount or merchandise awarded as a prize to the player or players obtaining a winning pattern in a particular bingo game. The awarding of alcoholic beverages, opportunities to play bingo, bell jar tickets and/or raffle tickets as a prize in any bingo game is prohibited.

[(w)] (v) *Quick bingo game* means a special game conducted in conjunction with a scheduled regular or special bingo game pursuant to section 4820.52 of this Chapter, in which specially constructed quick bingo cards are sold and marked by the players with standard indelible ink daubers. Quick bingo cards are sealed by the manufacturer and, when opened by the player, reveal a grid comprised of either 9 spaces formed by 3 rows of 3 spaces, or 16 spaces formed by 4 rows of 4 spaces, each space bearing a bingo number ranging from 1 to 75, provided no number is repeated on the same quick bingo face-card and the type-face of each number is sufficiently large to mark with a standard indelible ink dauber.

[(x)] (w) *Regular bingo game* means:

- (1) a game, regardless of the pattern required to win, that is played on a card or cards issued to a player upon payment of an admission fee not to exceed \$5; and
- (2) a bingo game conducted during a licensed occasion other than a limited period bingo occasion.

[(y)] (x) *Series* means a progression of face-cards in which no two face-cards are identical, each of which bears a consecutive face-card number printed thereon by the licensed bingo manufacturer. A series of opportunities is identified by the first and last face-card number assigned to that progression. For example, a 1 to 9,000 series refers to an intermixed group of face-cards bearing face-card numbers ranging from number 1 to 9,000, inclusive.

[(z)] (y) *Special bingo game* means a bingo game that cannot be played using either an admission card or an extra regular card, where the opportunities to participate in a special game (known as specials) must be purchased separately from admission cards and extra regular cards. The purchase of an opportunity to participate in a special game is optional. If a player wants to participate in a special game, such player must purchase a special for each game.

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[(aa)] (z) *Session* means a single gathering in which one, two, or three licensed bingo occasions are conducted consecutively by the same authorized organization, [provided] so long as not more than 30 minutes' time [shall elapse] elapses between the first and second occasions[, nor] or between the second and third occasions.

[(ab) *Supercard* means a bingo card selected by a player that contains five designated numbers corresponding with the letters B, I, N, G and O displayed on the bingo display board and that is played concurrently with other bingo cards or opportunities during a bingo game, pursuant to section 4820.48 of this Chapter.]

[(ac)] (aa) *Tri-color bingo* means a game using disposable bingo opportunities comprised of three different colored face-cards, wherein a different dollar amount is offered as a prize for each of the three colors, conducted pursuant to section 4820.56 of this Chapter.

[(ad)] (ab) *Triple-header* means a session of bingo in which three successive licensed bingo occasions are conducted by the same licensed authorized organization, [provided] so long as not more than 30 minutes' time [shall elapse] elapses between the first and second occasions[, nor] or between the second and third occasions.

[(ae)] (ac) *Wild number game* means a speed-up game in which players mark those numbers appearing on their face-cards whose second digits match the wild number's single digit number (or its second digit if the wild number is a two-digit number) so designated by the licensed authorized organization prior to the start of the occasion by drawing a bingo ball and announcing such ball to be the wild number ball and returning such ball to the receptacle prior to the start of the game. Wild number games are permitted only when the bingo system utilized has a wild number function that automatically causes the bingo display board to illuminate the wild number ball and all numbers corresponding with such ball.

[(af) *Bonus ball* means a special bingo game conducted in accordance with section 4820.57 of this Chapter that is played in conjunction with one or more regular and/or special bingo games that have been designated by the licensed authorized organization on its application for bingo license and on the bingo program required by section 4820.39 of this Chapter as bonus ball games and in which a bonus ball prize is awarded to the player acquiring the designated winning bingo pattern when the last number called and marked by that player is identical to the bonus ball number.]

* * *

§ 4820.1. Duties of member in charge.

The officers of every authorized organization licensed to conduct bingo shall designate a bona fide, active member of the licensee to be in charge of and primarily responsible for the conduct of the games of bingo on each occasion. The member in charge shall supervise all activities on the occasion for which such member is in charge, shall not permit any person to participate in any unauthorized game of chance of any kind other than bingo and shall be responsible for the making of the required report thereof (BC-7). The member in charge shall be familiar with the provisions of the Bingo Licensing Law, the ordinances or local laws, the rules and regulations of the commission and the terms

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of the license. The member in charge shall be present on the premises continuously during the occasion.

§ 4820.2. Responsibility for children.

In those municipalities that permit children under the age of 18 years to attend bingo occasions, the adults accompanying such children shall assert control and be responsible for the actions of such children throughout the bingo occasions. Children may participate in ancillary non-gaming activities as set forth in General Municipal Law section 486.

§ 4820.3. Restriction on participation.

No person shall assist in the conduct of bingo except an active member of the licensee, an active member of an organization that is an auxiliary to the licensee, an active member of an organization of which the licensee is an ancillary, or an active member of an organization that is affiliated with the licensee by being, with it, auxiliary to another organization. Before a member of any organization assists the licensee in the conduct of bingo, such organization must register with the commission and secure an identification number. Children may assist in ancillary non-gaming activities as set forth in General Municipal Law section 486.

* * *

§ 4820.14. Price of bingo cards.

(a) All opportunities to play, including admission cards, extra regular cards, special game cards, packages of opportunities, supercards, early bird cards, pre-drawn bingo cards, player select cards, quick bingo cards and, where applicable, limited period bingo cards, shall be assigned a specific price, shall be sold for that price only and that price shall not be varied during any occasion. All such opportunities shall be sold only within the building or place in which bingo is conducted. All such opportunities for a bingo occasion shall be sold only on the same day of the occasion and only immediately prior to and during the conduct of the occasion and in accordance with the provisions of section 4820.13 of this Part. Every package of opportunities shall be sold as a unit and no single opportunity forming a part of such unit shall be sold individually, except with respect to admission cards sold pursuant to section 4820.8 of this Part, unless the single opportunities correspond with, but are clearly different and readily distinguishable from, those opportunities comprising such package. A list shall be posted where the admission cards are sold setting forth the specific price of each such opportunity or package of opportunities. The price of each opportunity bearing the same number of face-cards per card or sheet, whether they be in the form of hard-boards, disposable cards or electronic bingo aid images, shall be identical to each other and shall be conspicuously posted and listed on the licensed authorized organization's bingo program required under section 4820.39 of this Part. The sale of such opportunities at any price other than that posted and listed on the bingo program is prohibited. The price for a [one-on] 1-on face-card to participate in an early bird game shall not exceed \$1. Early bird opportunities bearing more than one face-card may be priced at the discretion of the licensed authorized organization, provided [one-on] 1-on early bird cards are simultaneously offered for sale

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at a price of \$1, or less. A sign posted where supercards are sold shall set forth the price of each supercard opportunity and the amount or odds of each payout. The price per supercard shall not exceed \$10. In the case of limited period bingo, not more than 25 cents shall be charged for a single opportunity to participate in any one game and no person shall purchase more than five opportunities at any one time to participate in any one game.

* * *

(c) Opportunities to participate in tiered bingo games in which the cost of opportunities or packages of opportunities and the dollar amounts of the prizes to be awarded are proportionately higher per tier, may be offered for sale under the following restrictions:

- (1) [Each] each tier of bingo opportunities or packages of opportunities shall be readily distinguishable from the opportunities and packages of opportunities sold for all other tiers, and no two identical series of tiered bingo opportunities shall be sold during the same bingo session;
- (2) [The] the aggregate of the tiered prizes awarded in any single game shall not exceed [\$1,000] the amount set forth in General Municipal Law sections 479(5) and 481(1)(a) and the aggregate of tiered bingo games shall not cause the series of prizes to exceed [\$3,000 in prizes during any occasion] the amount set forth in General Municipal Law sections 479(6) and 481(1)(a);
- (3) [When] when it is determined that there are multiple winners in the same game but in different tiers, the winner in each tier shall be awarded the dollar amount for the prize scheduled for that tier, divided by the total number of winners in all tiers for that game. For example, if there are two winners on the first tier and three winners on the second tier, the two winners on the first tier each will [each] be awarded one-fifth of the dollar amount for the prize for the first tier[:] and the remaining three winners will each receive one-fifth of the dollar amount for the prize for the second tier; and
- (4) [No] no more than four tiers of prizes shall be offered per bingo occasion.

* * *

§ 4820.18. Announcement of winning patterns before a game.

The particular arrangement of numbers required to be covered in order to win the game (the ["winning pattern"] winning pattern) and the amount of the prize for each game shall be listed on the licensed authorized organization's bingo program and shall be clearly and audibly described and announced to the players immediately prior to the calling of the first ball drawn in that game. If a game is divided into multiple parts, the winning pattern and the amount of prize for each part of the game shall be listed on the licensed authorized organization's application for bingo license and on the bingo program[,] and shall be audibly announced to the players immediately prior to each multiple game. The aggregate amount of the prizes comprising all parts of a multiple-part game shall not exceed [\$1,000] the amount set forth in General Municipal Law sections 479(5) and 481(1)(a).

* * *

§ 4820.20. Bonus prizes.

* * *

(b) No bonus [prize(s)] prize or prizes offered shall result in the awarding of a single prize in excess of [\$1,000] the amount set forth in General Municipal Law sections 479(5) and 481(1)(a) or a total series of prizes in excess of [\$3,000] the amount set forth in General Municipal Law sections 479(6) and 481(1)(a) during any occasion.

* * *

(d) No prize shall be awarded based on a player's covering or daubing in indelible ink a numbered space that is not identical to the number announced by the caller, with the exception of a wild number game as defined in subdivision (ac) of section [4800.1(ae)] 4800.1 of this Chapter.

* * *

§ 4820.25. [Maximum value of prizes offered.] [Repealed]

[No prize shall exceed the sum or value of \$1,000 in any single game of bingo and the aggregate amount of all prizes offered or given in all games played on a single occasion shall not exceed \$3,000.]

§ 4820.26. Merchandise prizes.

When any merchandise prize is awarded in a game of bingo, its value shall be its cost to the licensee or, if donated, its fair market value. The fair market value of merchandise prizes donated to the licensee shall not be reported as an expenditure in the financial statement of bingo operations. No merchandise prize shall be redeemable or convertible into cash directly or indirectly by the licensee. The provisions of this section shall not be construed so as to circumvent the statutory prize limits [of \$1,000 in any single game or \$3,000 on any one bingo occasion] set forth in general Municipal Law 479(5) and 481(1)(a).

* * *

§ 4820.44. Cashing of checks prohibited.

No licensee, its members or agents, shall [accept in payment for any bingo opportunity any check, nor] cash any check out of bingo funds.

* * *

§ 4820.47. Advertising of bingo games.

A licensee may advertise the conduct of an occasion of bingo to the general public [by means of newspaper, radio, circular, handbill and poster, and by one sign not exceeding

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60 square feet in area, which may be displayed on or adjacent to the premises owned or occupied by a licensed authorized organization; and when an organization is licensed to conduct bingo occasions on the premises of another licensed organization or of a licensed commercial lessor, one additional such sign may be displayed on or adjacent to the premises in which the occasions are to be conducted. Additional signs may be displayed upon any fire-fighting equipment belonging to any licensed authorized organization which is a volunteer fire company, or upon any equipment of a first-aid or rescue squad in and throughout the community served by such volunteer fire company or such first-aid or rescue squad, as the case may be. All advertisements shall be limited to the description of such event as bingo, the name of the licensed authorized organization conducting such occasions, the license number of the authorized organization as assigned by the clerk, and the date, location and time of the bingo occasion, and] as provided for in General Municipal Law section 490. No advertising shall [not] include any misleading information.

* * *

§ 4820.49. Player select game; use of commission-approved player select face-cards.

Player select is a special game of bingo in which players purchase specially constructed player select cards approved by the commission upon which players enter bingo numbers of their choice. Player select is conducted as follows:

(a) Each player select card, which shall [be comprised of] comprise an original and one carbon-less copy, shall contain four or more blank spaces into which players enter numbers of their choice. Player select cards may, if approved in writing by the commission, bear one or more free spaces;

* * *

(f) The aggregate prizes awarded during the player select game and the regular or special game in which it is simultaneously played, if any, shall not exceed [\$1,000 per game, nor \$3,000 per occasion, unless the player select game is conducted as an early bird game, pursuant to section 4820.50 of this Part] the amounts set forth in General Municipal Law sections 479(5) and (6) and 481(1)(a).

* * *

§ 4820.50. Early bird game.

[The *early bird game*, also known as “share the wealth” or “split pot,” is a special game in which the prize is based on a designated percentage of the receipts from the sale of early bird cards, that is conducted as follows:]

(a) Not more than two early bird games shall be conducted per bingo occasion[;].

(b) Early bird games may be scheduled at any time during a licensed occasion[;].

- (c) Each early bird game, and the percentage of the receipts to be awarded as a prize therein, shall be listed on the application for the bingo license, on the license, and on the licensed authorized organization's bingo program, as required under section 4820.39 of this Part[;].
- (d) The prize awarded in any early bird game shall not exceed 75 percent of the receipts from the sale of early bird cards for such game[;].
- (e) No early bird card shall be sold less than 10 minutes prior to the calling of the first object or ball in any early bird game[;].
- (f) The total receipts from the sale of early bird cards, and the amount of the prize to be awarded in each early bird game, shall be announced immediately prior to the calling of the first object or ball in such early bird game[;].
- (g) No player shall be required to pay more than \$1 for a bingo opportunity bearing at least one face-card to participate in an early bird game. Additional early bird opportunities bearing multiple face-cards may be offered for sale at a price of more than \$1, provided the licensee's bingo program clearly lists the offering of at least a single face-card early bird card for \$1 or less and that such opportunities are visibly offered for sale[;].
- (h) The prize awarded during the conduct of an early bird game is not subject to the single prize limitation, nor is the prize considered part of the total series of bingo prizes imposed by [subdivisions 5 and 6 of section 479 and paragraph (a) of subdivision 1 of section 481 of the] General Municipal Law sections 479(5) and (6) and 481(1)(a) [or section 4820.25 of this Part] [; and].
- (i) Licensed authorized organizations conducting early bird games shall separately report the conduct of each early bird game on cash control report form BC-7.

* * *

§ 4820.52. Quick bingo game; use of commission-approved quick bingo face-cards.

[*Quick bingo game* is a special bingo game in which specially constructed quick bingo cards approved by the commission are sold and marked by the players with indelible ink daubers. Quick bingo games shall be conducted as follows:]

- (a) Quick bingo games shall be conducted using only commission-approved break-open or sealed bingo opportunities, which shall be constructed in such a manner, and of such material, so as to prevent the viewing of the numbers printed thereon until the purchasing player opens the opportunity by opening the perforated tabs or otherwise breaking a secured seal thereon enclosing the face-card[;].
- (b) Quick bingo cards, once opened by the player, shall reveal a grid comprised of either nine spaces formed by three rows of three spaces each, or 16 spaces formed by four rows of four spaces, each space bearing a number ranging from one to 75, inclusive,

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none of which shall be repeated on the same quick bingo card. The type-face of each number shall be sufficiently large to mark with a standard-sized indelible ink dauber[;].

(c) Quick bingo cards shall not be exchanged[;].

(d) The aggregate prizes awarded during a quick bingo game and the bingo game in which it is simultaneously played, if any, shall not exceed [\$1,000 per game, nor \$3,000 per occasion;] the amounts set forth in General Municipal Law sections 479(5) and (6) and 481(1)(a).

(e) The dollar amount of each quick bingo prize shall be listed on the application for the bingo license and on the licensed authorized organization's bingo program required under section 4820.39 of this Part[;].

(f) If the licensed organization has verified that all of the numbers daubed by a player match the numbers announced by the bingo caller during the designated quick bingo game, that player shall be declared a winner. If there are two or more winners in a single quick bingo game, the established prize shall be divided equally among those winners in accordance with section 4820.27 of this Part[;].

(g) If a winner is verified in a bingo game conducted simultaneously with the quick bingo game and that game is officially closed, an additional numbered ball or balls shall be drawn and announced by the caller until a winner of the quick bingo game is determined.

§ 4820.56. Tri-color bingo game; use of commission-approved tri-colored bingo opportunities.

[*Tri-color bingo* is a game using disposable bingo opportunities comprised of three different colored face-cards, wherein a different dollar amount is offered as a prize for each of the three colors. Tri-color bingo shall be conducted as follows:]

(a) Tri-color bingo shall [only] be conducted only using commission-approved bingo opportunities marked with indelible ink daubers[;].

(b) Tri-color bingo games may be conducted as an early bird game in which the prize for each of the three colors is based on a percentage of the gross receipts from the sale of bingo opportunities to participate in that game, pursuant to section 4820.50 of this Part, or the prizes may be based on fixed dollar amounts awarded for each color. In either case, the percentage of sales to be awarded for each color, or the dollar amount of the fixed prize to be awarded for each color, shall be listed on both the organization's application for license and the bingo program[;].

(c) The dollar amount of the prize to be awarded in each color category shall be announced prior to the calling of the first number in each tri-color game[;].

(d) When it is determined that there is one winner in a tri-color game, the winner shall be awarded the prize corresponding with the color of the winning face-card[;].

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(e) When it is determined that there are multiple winners in a tri-color game on face-cards of the same color, the dollar amount of the prize corresponding with that color shall be divided by the number of winners, and each winner shall be awarded an equal share[; and].

(f) When it is determined that there are multiple winners in a tri-color game on face-cards of different colors, the winner in each color shall be awarded the dollar amount of the prize scheduled for that color, divided by the total number of winners in all colors for that game. For example, if there are three winners on one color, two winners on a second color and one winner on the third color, the three winners on the first color will each be awarded one-sixth of the dollar amount of the prize for that color; the two winners on the second color will each receive one-sixth of the dollar amount of the prize for the second color; and the sole winner on the third color shall be awarded one-sixth of the dollar amount of the prize for the third color.

§ 4820.57. Bonus ball.

[*Bonus ball* is a special bingo game played in conjunction with one or more regular and/or special bingo games that have been designated by the licensed authorized organization on its application for bingo license and on the bingo program as “Bonus Ball Games” and in which a “Bonus Ball Prize” is awarded to the player acquiring the designated winning bingo pattern when the last number called and marked by that player is identical to the “Bonus Ball Number.”]

(a) * * *

(2) The bonus ball number[;] is determined for each occasion by the bingo caller's drawing of a bingo ball from the receptacle, the caller's announcement that the ball drawn is the bonus ball number for that occasion only, the prominent posting of the bonus ball number in an area of the bingo premises visible to the majority of players, and the immediate return of that ball to the receptacle. The bonus ball number must be determined, announced and prominently posted prior to the start of the first bingo game in each occasion and remain posted throughout all bingo games during such occasion.

* * *

(9) If there is no winner during a bingo occasion in which opportunities to play bonus ball are sold, the bonus ball prize money is carried-over and added to the specified percentage of the proceeds derived from the sale of bonus ball opportunities during each subsequent bingo occasion, until a winner is determined and the bonus ball prize is awarded[.]; provided, however, pursuant to [subsection 11-b of section 1 of section 476 of the] General Municipal Law section 476(1)(11-b), [that] no bonus ball prize can exceed the sum of \$6,000. When a bonus ball prize reaches \$6,000, that prize must remain at \$6,000 until a winner is determined. All proceeds from the sale of opportunities collected after a bonus ball prize has reached \$6,000 shall be retained by the licensed authorized organization as profit until the \$6,000 bonus ball prize is awarded, at which time the caller shall declare the bonus ball game closed for the remainder of that bingo occasion.

[(10) Bonus ball prizes are exempt from the single game prize limitation of \$1,000 and the \$3,000 limit on the series of prizes imposed by subdivisions 5 and 6 of section 479, paragraph (a) of subdivision 1 of section 481 of the General Municipal Law and section 4820.25 of this Part. However, as detailed in paragraph (9) of this subdivision, no bonus ball prize can exceed the sum of \$6,000, pursuant to subsection 11-b of section 1 of section 476 of the General Municipal Law.]

[(11)] (10) Although the prizes awarded in [Bonus Ball] bonus ball games [are comprised of] comprise a predetermined percentage of the proceeds collected from the sale of opportunities identical to the prizes awarded in early bird bingo games [defined in section 4800.1(h) and] conducted pursuant to section 4820.50 of this Part, early bird and bonus ball are two distinctly separate bingo games. Authorized organizations may be licensed to conduct two early bird games per occasion and can also designate any or all of the regular and/or special bingo games conducted during that occasion to be bonus ball games.

(b) Opportunities to participate in both occasions of a double-header or all three occasions of a triple-header session may be sold prior to the first occasion in such sessions, [provided;] so long as:

(1) [The] the proceeds from the total sales of bonus ball opportunities are, prior to the start of the first occasion, divided into two equal parts for a double header[,] and three equal parts for a triple header, and that those parts shall be subdivided according to the percentages specified on the application for the bingo license to form the percentage of such funds to be retained by the licensee as the profit for each occasion, and the percentage of the proceeds to be available as separate prizes in each of the occasions in the session, and

(2) [The] the bonus ball number must be determined by a drawing of a bingo ball from the bingo receptacle, and [it] such number must be announced[,], prominently posted in the area of the bingo premises occupied by the majority of players[;] and [shall] be returned to the receptacle prior to the start of the first bingo game in each occasion in which bonus ball is conducted, unless the application for bingo license specifies that the bonus ball number drawn prior to the first game in the first occasion of a double header or triple header session shall be designated the bonus ball number for all of the occasions conducted during that session.

* * *

§ 4821.9. Method of withdrawal.

[All] Except for the electronic transfer of funds to State, local and Federal governmental entities in compliance with lawful expenditures set forth in section 4821.18 of this Part; utilities, including light, heat, power and water, telephone, mortgages and payments to licensed bingo suppliers, all monies withdrawn from the special bingo account shall be only by checks having preprinted consecutive numbers, signed by at least two duly authorized officers of the licensee and made payable to a specific person, firm, partnership or corporation with the purpose specified on the check stub, and at no time shall a check be made payable to cash. All checks must be accounted for in the

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appropriate part of the Financial Statement of Bingo Operations (form BC-7) or quarterly summary statement of bingo operations (form BC-7Q).

* * *

§ 4821.17. Notification and expenditure of funds after cessation of bingo.

An organization's chief officer shall notify the commission and the municipality in writing of [its] such organization's intent to cease the conduct of bingo. An organization that has ceased to conduct bingo for any reason and has unexpended bingo funds shall:

- (a) disburse said funds for lawful purposes within a period of one year after the cessation of the conduct of bingo; or
- (b) disburse said funds in accordance with a plan of expenditure approved in advance by the commission.

Upon the final disbursement of such funds, the organization shall submit to the commission and the municipality a final quarterly statement of bingo operations (BC-7Q) documenting the final disposition of such bingo funds.

§ 4821.18. Lawful expenditures.

(a) These expenditures, being necessary to conduct bingo, are permissible and do not require prior commission approval. Except as noted below for additional license fees, these expenses shall be reported in part B on forms BC-7 and BC-7Q:

* * *

(c) All other donations and other expenditures, provided they are reasonable and are directly related to the licensee's lawful purposes as defined in [section 476, subsection 6 of the] General Municipal Law section 476(6), are permissible and/or required as follows:

(1) for an organization engaged exclusively in one or more of the lawful purposes specified in subdivision (b) of this section, all such expenditures except those listed in paragraph [(4)] (3) below of this subdivision are permissible and do not require prior commission approval;

[(2) all fraternal and service organizations shall disburse at least one-third of the net profits derived from bingo for one or more of the lawful purposes specified in subdivision (b) of this section before any proceeds may be expended on maintenance and/or repair to the licensee's premises or other similar operating expenses that enable the licensee to raise funds for lawful purposes. The one-third donation is calculated on a calendar-year basis and any deficiency will be cumulative. It is incumbent upon each licensee to periodically review such licensee's contribution record. If the provisions of this Part are not strictly adhered to, the licensed organization shall be prohibited from disbursing any of such licensed organization's bingo funds for other than lawful purposes without obtaining the prior written approval of the commission;]

~~[(3) a fraternal or service] (2) an authorized~~ organization[, having fulfilled its one-third donation requirement specified in paragraph (2) of this subdivision,] may disburse bingo funds towards the following operating expenses without obtaining prior commission approval:

* * *

~~[(4)] (3)~~ all organizations, with the exception of veterans' organizations, shall submit and have approved by the commission form BC-317 (Application for Permission to Disburse Net Proceeds of Bingo), prior to disbursing bingo funds for any of the [following] purposes set forth in this paragraph. A veterans' organization may disburse bingo funds for such purposes, [provided] so long as a copy of the organization's minutes from a membership meeting authorizing the [expenditure(s)] expenditure or expenditures are filed with the commission[;]:

* * *

(iii) more than \$10,000 per calendar year for new buildings, or additions, renovations, or repairs to existing [building(s)] buildings;

* * *

(vi) salaries, other than those specified above in paragraphs (4) of subdivision (a) and (5) of subdivision (b) of this section, and subparagraph (ii) of paragraph ~~[(3)] (2)~~ of this subdivision; and

(vii) more than \$5,000 per calendar year for legal, accounting[,] or other professional fees.

(d) [The following expenditures are never a permissible use of] All types of authorized organizations may not use bingo funds[,] for the expenditures et forth in this subdivision, except [by a veterans'] that an organization of veterans, [whose members have,] in strict compliance with [its own] such organization's charter and bylaws, [authorized the same and filed the minutes of that membership meeting] shall file with the commission a copy of the minutes of the meeting of membership authorizing any of the expenditures set forth in this subdivision:

* * *

(4) [TV] television or other amusement devices for use of the licensee organization, its auxiliaries or affiliates; and

* * *

§ 4823.7. Restrictions on the use of electronic bingo aids by authorized organizations.

* * *

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(d) The maximum number of electronic bingo aids in use per licensed premise shall not exceed [15] 25 percent of the total bingo seating capacity for such premise.

* * *