

**NEW YORK CODES, RULES AND REGULATIONS
TITLE 21
CHAPTER XLIV.
NEW YORK STATE DIVISION OF THE LOTTERY**

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**PART 2800
GENERAL PROVISIONS**

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§ 2800.1 Purpose and scope

This chapter is promulgated by the Division of the Lottery pursuant to article 34 of the Tax Law and governs the establishment, operation, and administration of the New York State Lottery, and such additional responsibilities as may be assigned by law. Subjects covered by this chapter include, but are not limited to: frequency of drawings, price of tickets, structure of prizes, payment of prizes, licensing of agents, use of vending machines, safekeeping operations and control and distribution of lottery tickets.

§ 2800.2 Effective date

This Chapter shall take effect upon filing with the Secretary of State.

§ 2800.3 Definitions

Unless the context indicates otherwise, the following definitions are applicable throughout this Chapter.

- (a) Act or law means article 34 of the Tax Law, commonly known and cited as the "New York State Lottery for Education Law."
- (b) Agent means a person who has been licensed to sell lottery tickets under the act.
- (c) Claims center means any place designated by the division where a ticket holder or his representative may file a claim for a prize in accordance with instructions of the division.
- (d) Commission means payments to agents, banks, or other persons for sales, processing of claims, distribution and handling of tickets and revenue, and other services performed at the request of the Director of the Lottery.
- (e) Commissioner means the Commissioner of Taxation and Finance.
- (f) Director means the director of the Division of the Lottery.
- (g) Division means the Division of the Lottery created by the act to administer and operate the Lottery.
- (h) Fund means the State Lottery fund established pursuant to section 92-c of the State Finance Law.
- (i) Lottery or State Lottery means the Lottery established and operated pursuant to the act.
- (j) Person shall be construed to mean and include an individual, partnership, association, organization, corporation, club, company, trust, estate, society, joint-stock company, receiver, trustee, assignee, referee, or any other person acting in a fiduciary capacity, or representative capacity, whether appointed by a court or otherwise, and any combination of individuals. Person shall also be construed to mean and include agencies, and instrumentalities of the State, and counties, cities, towns, and villages.
- (k) Revenue means the monies collected from sales of lottery tickets less prizes paid to winners, operating expenses and commissions paid to agents or banks.
- (l) Ticket means any lottery ticket approved by the division for sale to the general public.
- (m) Vendor shall have the same meaning as agent, as defined in subdivision (b) of this section.

§ 2800.4 Powers reserved

All powers not specifically defined in this Chapter are reserved to the division under the laws creating the division and specifying its powers and duties.

§ 2800.5 Name, official seal and offices

(a) The division may use the names "New York State Lottery" or "New York's Lottery" in advertisements, public announcements, correspondence, or for any other lawful purpose, and whenever so used such names shall be deemed to refer to the division with the same force and effect as if the full name of the division was used.

(b) The division shall adopt an official seal which shall be used in the cases prescribed by law and in such other cases as authorized by the director.

(c) The principal office of the division shall be located at: One Broadway Center, P.O. Box 7500, Schenectady, New York 12301-7500. The division may also operate such other offices and facilities as the director may deem appropriate to fulfill the responsibilities of the division under the act.

§ 2800.6 Director

(a) The director shall be the chief executive officer of and in sole charge of the administration of the division.

(b) The director shall have the authority to implement and execute such procedures as he may deem appropriate for the efficient administration of the act, and to promulgate rules and regulations governing the establishment, administration and operation of the Lottery at his discretion to accomplish the purposes of the act and to amend, repeal or supplement such rules and regulations.

(c) The director shall conduct a continuous study and investigation of all matters pertinent to the efficient operation of the Lottery.

(d) The director shall maintain full and complete records of the operation of the division. He shall report on a regular basis to the commissioner and to the Governor on the status of the Lottery.

§ 2800.7 Hearings on suspension or revocation of lottery sales agent license

(a) A lottery sales agent is entitled to notice and an opportunity to be heard before suspension or revocation of the licensed provided that the lottery sales agent requests such a hearing within 20 days from the date of notice of the suspension or revocation. If the director or his designee finds that the public health, safety, or welfare imperatively requires emergency action, and incorporates a finding to that effect in a written order, summary suspension of a lottery sales agent license may be temporarily ordered, pending proceedings for license suspension or revocation.

(b) A petition requesting a hearing shall be in writing signed by the petitioner or an attorney on behalf of the petitioner and shall include the petitioner's mailing address.

(c) Upon receipt of a petition requesting a hearing, the director or his designee shall

issue a notice of hearing fixing the date, time and place at which the hearing shall be held, stating the legal authority and jurisdiction under which the hearing is to be held, referring to the particular sections of the statutes and rules involved, where possible setting forth a short and plain statement of matters asserted, and stating that interpreter services shall be made available to deaf persons, at no charge, pursuant to section 301 of the State Administrative Procedure Act provided that such interpreter services are requested a reasonable time in advance of the hearing. Upon the written application of any party, a more definite and detailed statement of the matters asserted shall be furnished whenever the director or his designee finds that the statement in the notice of hearing is not sufficiently definite or not sufficiently detailed. Any more definite and detailed statement so furnished shall be deemed to be a part of the notice of hearing. A notice of hearing shall give at least 10 days notice to the petitioner and other parties and shall be served either in person or by certified mail.

(d) The hearing officer shall be a person designated by the director. Upon the filing in good faith by a party of a timely and sufficient affidavit of personal bias or disqualification of a hearing officer, the division shall determine the matter as part of the record of the proceedings. Whenever a hearing officer is disqualified or it becomes impractical for him or her to continue, another hearing officer may be designated to continue the proceedings unless it is shown that substantial prejudice would result therefrom. The hearing officer's written report of the hearing containing findings of fact, conclusions of law, and recommended decisions shall be filed with the director and mailed to the parties of record, and all parties of record shall have 10 days in which to file exceptions, objections, and replies thereto, after which the director shall adopt, reverse, or modify the report and recommended decision.

(e) [Reserved]

(f) A party shall be required to make disclosures prior to a hearing only as provided by this subdivision. When the revocation of a lottery sales agent license is sought, any party shall, upon written demand and at least seven days prior to the date of the hearing, disclose the evidence that the party intends to introduce at the hearing, including documentary evidence and identification of witnesses except material protected by law from disclosure, including privileged or confidential information. If after making such disclosure, a party decides to rely on other witnesses or documents, the party shall, as soon as practicable, supplement its disclosure by providing the names of such witnesses or copies of such documents.

(g) The hearing officer shall rule on matters of procedure and evidence, and shall conduct the hearing in such manner as, in the hearing officer's discretion, will best serve the attainment of justice. The hearing officer may direct questions to any party or witness.

(h)(1) The order of proof shall be as follows:

(i) testimony by witnesses in support of the matters asserted against the licensee;

(ii) cross-examination of such witnesses;

(iii) testimony by the licensee and witnesses produced by the licensee; and

(iv) cross-examination of the licensee and the licensee's witnesses.

The hearing officer may, in the hearing officer's discretion, change the order of proof.

(2) Objections or exceptions may be made to the rulings of the hearing officer and the reasons therefor shall be stated, but such objections or exceptions will not be deemed to have been made unless duly noted on the record.

(3) The formal rules of evidence shall not be rigidly enforced in hearings before the division. Unless objection or exception is made, sustained, and duly noted on the record, all evidence appearing in the record shall be deemed to have been properly admitted for consideration by the division.

(4) The introduction of cumulative evidence shall be avoided, and the hearing officer may limit the testimony of any witness which the hearing officer deemed to be merely cumulative; however, the party offering such testimony may make a short avowal of the testimony which would have been given and if the witness asserts that such avowal is true, the avowal shall be made part of the record.

(5) The hearing officer shall have the authority upon application of any party to reopen an adjourned hearing for the presentation of new or additional evidence. Such application shall be in writing and shall set forth a brief description of the new or additional evidence to be presented.

(6) Oral argument may be made only before the hearing officer. Within the discretion of the hearing officer, such oral argument may be curtailed or limited.

(i) (1) The record shall include:

(i) all notices, pleadings, motions, and intermediate rulings;

(ii) evidence presented;

(iii) a statement of matters officially noticed except matters so obvious that a statement of them would serve no useful purpose;

(iv) questions and offers of proof, objections thereto, and rulings thereon;

(v) proposed findings and exceptions, if any;

(vi) findings of fact, conclusions of law, and recommendations made by the hearing officer; and

(vii) the decision, determination, opinion, order, or report rendered in the matter by the director.

(2) The hearing shall be recorded by either stenographic or electronic means.

(3) Upon application made by a licensee, a copy of the record shall be furnished to the licensee. If the stenographic or electronic recording of the hearing has not been transcribed, that portion of the record shall be furnished to the licensee only upon payment of the cost of transcription.

§ 2800.8 Rules of former lottery not applicable

The rules and regulations governing the operation of the State Lottery formerly conducted by the State Racing and Wagering Board and the predecessors of the State Racing and Wagering Board are not applicable to the operation of the State Lottery under article 34 of the Tax Law, as added by chapter 92 of the Laws of 1976 and subsequently amended.

§ 2800.9 Reward payments

The director in his discretion may authorize the payment of a reward in the amount of up to \$ 100 per offense to any person for information leading to the arrest and conviction of any person or persons for any offense involving the theft or misuse of lottery tickets, records, or equipment.

§ 2800.10 Public access to records

(a) Purpose and scope.

(1) The people's right to know the process of government decision making and the documents and statistics leading to determinations is basic to our society. Access to such information should not be thwarted by shrouding it with the cloak of secrecy or confidentiality.

(2) This section sets forth the procedures by which access to records of the division may be obtained.

(3) The division shall furnish to the public information and records required by the Freedom of Information Law.

(4) Any conflicts among laws governing public access to records shall be construed in favor of the widest possible availability of public records.

(b) Designation of records access officer.

(1) The Lottery is responsible for insuring compliance with the regulations herein, and designates the following person as records access officer: Public Information Officer, New York State Division of the Lottery, One Broadway* Center, P.O. Box 7500, Schenectady, NY 12301-7500.

(2) Records access officers are responsible for insuring appropriate agency response to public requests for access to records. The designation of records access officers shall not be construed to prohibit officials who have in the past been authorized to make records or information available to the public from continuing to do so.

(3) Records access officers shall insure that personnel:

(i) maintain an up-to-date subject matter list;

(ii) assist the requester in identifying requested records, if necessary;

(iii) upon locating the records, take one of the following actions:

(a) make records available for inspection; or

(b) deny access to the records in whole or in part and explain in writing the reasons therefor;

(iv) upon request for copies of records:

(a) make a copy available upon payment or offer to pay established fees in accordance with subdivision (i) of this section; or

(b) permit the requester to copy those records;

(v) upon request, certify that a record is a true copy; and

(vi) upon failure to locate records, certify that:

(a) the Division of the Lottery is not the custodian for such records; or

(b) the records of which the Division of the Lottery is a custodian cannot be found after diligent search.

(c) Location. Records, except those specifically exempted from disclosure and those deemed to contain trade secrets, shall be available for public inspection and copying at: One Broadway Center, P.O. Box 7500, Schenectady, NY 12301-7500.

(d) Hours for public inspection. Requests for public access to records shall be accepted and records produced during all hours the offices of the division are regularly open for business.

(e) Requests for public access to records, except as provided for in subdivision (g).

(1) A written request may be required, but oral requests may be accepted when records are readily available.

(2) A response shall be given regarding any request reasonably describing the record or records sought within five business days of receipt of the request.

(3) A request shall reasonably describe the record or records sought. Whenever possible, a person requesting records should supply information regarding dates, file designations or other information that may help to describe the records sought.

(4) If the records access officer does not provide or deny access to the record sought within five business days of receipt of a request, he or she shall furnish a written acknowledgment of receipt of the request and a statement of the approximate date when the request will be granted or denied. If access to records is neither granted nor denied within 10 business days after the date of acknowledgment of receipt of a request, such fact may be construed as a denial of access that may be appealed.

(f) Subject matter list. (1) The division shall maintain a reasonably detailed current list, by subject matter, of all records in its possession, whether or not such records

are available pursuant to subdivision 2 of section 87 of the Public Officers Law.

(2) The subject matter list shall be sufficiently detailed to permit identification of the category of the record sought.

(3) The subject matter list shall be updated not less than twice per year. The most recent update shall appear on the first page of the subject matter list.

(g) Records containing trade secrets.

(1) A trade secret may consist of, but shall not necessarily be limited to, any formula, ink, pattern, production process, procedure, plan, compound, material, coating, chemical, composition, cost records or compilation of information that is not published or divulged and which gives an advantage over competitors who do not know, use or have access to such data or information.

(2) A person submitting information pursuant to law or regulation to the division shall clearly identify any portion of the information considered to be a trade secret and shall request that such information or portion thereof be exempt from disclosure by the division.

(i) Accompanying the identification shall be a statement of the reason(s) for considering the information to be a trade secret not subject to disclosure as provided for in paragraph (d) of subdivision (2) of section 87 of the Public Officers Law.

(ii) Within fifteen business days of receipt of a written request for an exception, the division will either grant or deny such request in writing.

(iii) Information constituting trade secrets submitted to the division as provided in this subdivision shall be excepted from disclosure and shall be maintained apart from all other records in the unit in which they are kept until fifteen days after the entitlement to such exception has been finally determined or such further time as ordered by a court of competent jurisdiction.

(h) Denial of access to records.

(1) Denial of access to records shall be in writing, stating the reason therefor and advising the requester of the right to appeal to the individual or body established to hear appeals.

(2) If requested records are not provided promptly, as required in paragraph (e) (4) of this section, such failure shall also be deemed a denial of access.

(3) The following person or persons or body shall hear appeals from denials of access to records under the Freedom of Information Law: Executive Deputy Director, New York State Division of the Lottery, One Broadway Center, P.O. Box 7500, Schenectady, NY 12301-7500.

(4) The time for deciding an appeal shall commence upon receipt of a written appeal identifying:

(i) the date of the appeal;

- (ii) the date and location of the request for records;
- (iii) the records to which the requester was denied access;
- (iv) whether the denial of access was in writing or due to failure to provide records promptly as required by paragraph (e) (4) of this section; and
- (v) the name and return address of the requester.

(5) The individual or body designated to hear appeals shall inform the requester of the decision in writing within ten business days of receipt of an appeal.

(6) The person or body designated to hear appeals shall transmit to the Committee on Open Government copies of all appeals upon receipt of appeals. Such copies shall be addressed to: Committee on Open Government, Department of State, 162 Washington Avenue, Albany, NY 12231.

(7) The person or body designated to hear appeals shall inform the appellant and the Committee on Open Government of its determination in writing within seven business days of receipt of an appeal. The determination shall be transmitted to the Committee on Open Government in the same manner as set forth in paragraph (6) of this subdivision.

(i) Fees. (1) There shall be no fee charged for:

(i) inspection of records;

(ii) search for records; or

(iii) any certification pursuant to this Part.

(2) Copies of records shall be provided for a fee not exceeding 25 cents per copy of each page not exceeding 9 x 14 inches, or the actual cost of reproducing any other record. The division may waive payment of fees in any case.

(j) Public notice. A notice containing the title or name and business address of the records access officer and appeals person or body and the location where records can be seen or copied shall be posted in a conspicuous location wherever records are kept.

(k) Severability. If any provision of this section or the application thereof to any person or circumstance is adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or impair the validity of the other provisions of this section or the application thereof to other persons and circumstances.

§ 2800.11 Personal privacy protection

(a) Purpose and scope.

(1) It is the responsibility and the intent of the division to comply fully with the provisions of article 6-A of the Public Officers Law, the Personal Privacy Protection

Law.

(2) The division shall maintain in its records only such personal information that is relevant and necessary to accomplish a purpose required by statute or executive order, or to implement a program specifically authorized by law.

(3) The division shall collect personal information, whenever practicable, directly from the person to whom the information pertains, except when collecting or maintaining personal information for the purpose of making licensing or adjudicatory determinations.

(4) The division seeks to ensure that all records pertaining to or used with respect to individuals are accurate, relevant, timely and complete.

(5) This section sets forth the procedures by which the public may exercise rights specified by the Personal Privacy Protection Law.

(6) Paragraph (3) of this subdivision shall not apply to personal information maintained by the division for the purpose of determining whether administrative or criminal action should be taken to grant, deny, suspend or revoke a license.

(b) Designation of privacy compliance officer.

(1) To ensure compliance with the provisions of the Personal Privacy Protection Law, the division designates the following person as privacy compliance officer: Public Information Officer, New York State Division of the Lottery, One Broadway Center, P.O. Box 7500, Schenectady, NY 12301-7500.

(2) The privacy compliance officer is responsible for ensuring that the division:

(i) assist a data subject in identifying requested personal information, if necessary;

(ii) describe the contents of systems of records in order to enable a data subject to learn if a system of records includes a record or personal information identifiable to a data subject requesting such record or personal information;

(iii) upon locating the record sought:

(a) make the record available for inspection, in a printed form, without codes or symbols, unless an accompanying document explaining such codes or symbols is provided;

(b) permit the data subject to copy the record;

(c) deny access to the record in whole or in part and explain in writing the reasons therefor; or

(iv) upon request for copies of records:

(a) make a copy available upon payment of or offer to pay established fees, if any, in accordance with subdivision (k) of this section; or

- (b) permit the data subject to copy those records;
- (v) upon request, certify that a copy of a record is a true copy; or
- (vi) upon failure to locate records, certify that:
 - (a) the division does not possess such records; or
 - (b) the division cannot find such record after diligent search; or
 - (c) the information sought cannot be retrieved by use of the description thereof, or by use of the name or other identifier of the subject without employing extraordinary search methods.
- (c) Proof of identity.
 - (1) When a request is made in person, or when records are made available in person following a request made by mail, the division shall require appropriate identification, such as a driver's license, an identifier assigned to the data subject by the division or by the agency within which the record originated, a photograph or similar information that confirms that the record sought pertains to the data subject.
 - (2) If a request is made by mail, the division shall require verification of a signature or inclusion of an identifier generally known only by a data subject, or similar appropriate identification.
 - (3) Proof of identify shall not be required regarding a request for a record accessible to the public pursuant to article 6 of the Public Officers Law.
- (d) Location. Records, except those specifically exempt from access by data subjects, shall be available to data subjects for inspection and copying at: One Broadway Center, P.O. Box 7500, Schenectady, NY 12301-7500.
- (e) Hours for public inspection. Requests for access to records by data subjects shall be accepted and records produced during all hours the offices of the division are regularly open for business.
- (f) Requests for records of personal information.
 - (1) All requests shall be made in writing, except that records may be made available upon an oral request made in person after the applicant has demonstrated proof of identity.
 - (2) A request shall reasonably describe the record or records sought. Whenever possible, a person requesting records should supply information regarding dates, file designation or other information that may help to describe the records sought.
 - (3) Requests based upon categories of information described in a notice of a system of records or a privacy impact statement shall be deemed to reasonably describe the record sought.
 - (4) Within five business days of the receipt of a request, the privacy compliance

officer shall provide access to the record, deny access in writing explaining the reasons therefor, or acknowledge the receipt of the request in writing, stating the approximate date when the request will be granted or denied, which date shall not exceed 30 days from the date of the acknowledgment.

(g) Amendment of records. Within 30 business days of a request from a data subject for correction or amendment of a record or personal information that is reasonably described and that pertains to the data subject, the privacy compliance officer shall:

(1) make the amendment or correction in whole or in part and inform the data subject that, on request, such correction or amendment will be provided to any person or governmental unit to which the record or personal information has been or is disclosed pursuant to paragraph (d), (i) or (l) of subdivision 1 of section 96 of the Public Officers Law; or

(2) inform the data subject in writing of a refusal to correct or amend the record, including the reasons therefor.

(h) Denial of request.

(1) Denial of a request for records or amendment or correction of a record or personal information:

(i) shall be in writing, explaining the reasons therefor; and

(ii) identify the person to whom an appeal may be directed.

(2) A failure to promptly grant or deny access to records, as required in paragraph (f)(4) of this section, shall be construed as a denial that may be appealed.

(3) The following person, persons or body shall hear appeals for any such denial under the Personal Privacy Protection Law: Executive Deputy Director, New York State Division of the Lottery, One Broadway Center, P.O. Box 7500, Schenectady, NY 12301-7500.

(i) Appeal.

(1) Any person denied access to a record or denied a request to amend or correct a record or personal information pursuant to subdivision (h) of this section may, within 30 days of such denial, appeal to the person named above in paragraph (h)(3) of this section.

(2) The time for deciding an appeal shall commence upon receipt of an appeal that identifies:

(i) the date and location of a request for a record or amendment or correction of a record or personal information;

(ii) the record that is the subject of the appeal; and

(iii) the name and return address of the requester.

(3) Within seven business days of an appeal of a denial of access, or within 30 days of an appeal concerning a denial of a request for correction or amendment, the person determining such appeals shall:

(i) provide access to, correct or amend the record or personal information; or

(ii) fully explain in writing the factual and statutory reasons for further denial and inform the data subject of the right to seek judicial review of such determination pursuant to article 78 of the Civil Practice Law and Rules.

(4) If, on appeal, a record or personal information is corrected or amended, the data subject shall be informed that, on request, the correction or amendment will be provided to any person or governmental unit to which the record or personal information has been or is disclosed pursuant to paragraph (d), (i) or (l) of subdivision 1 of section 96 of the Public Officers Law.

(5) The person or body designated to hear appeals shall transmit to the Committee on Open Government a copy of any appeal upon receipt of such appeal, the determination thereof and the reasons therefor at the time of such determination.

(j) Statement of disagreement by data subject.

(1) If correction or amendment of a record or personal information is denied in whole or in part upon appeal, the determination rendered pursuant to the appeal shall inform the data subject of the right to:

(i) file with the division a statement of reasonable length setting forth the data subject's reasons for disagreement with the determination; and

(ii) request that such a statement of disagreement be provided to any person or governmental unit to which the record has been or is disclosed pursuant to paragraph (d), (i) or (l) of subdivision 1 of section 96 of the Public Officers Law.

(2) Upon receipt of a statement of disagreement by a data subject, the division shall:

(i) note any portions of the record that are disputed; and

(ii) attach the data subject's statement as part of the record.

(3) When providing a data subject's statement of disagreement to a person or governmental unit in conjunction with a disclosure made pursuant to paragraph (d), (i) or (l) of subdivision 1 of section 96 of the Public Officers Law, the division may also include a statement of its reasons for not making the requested amendment or correction.

(k) Fees. (1) Unless otherwise prescribed by statute, there shall be no fee charged for:

(i) inspection of records;

(ii) search for records; or

(iii) any certification pursuant to this Part.

(2) Copies of records shall be provided for a fee not exceeding 25 cents per copy of each page not exceeding nine inches by 14 inches, or the actual cost of reproducing any other record. The division may waive payment of fees in any case.

(l) Severability. If any provision of this section or the application thereof to any person or circumstance is adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or impair the validity of the other provisions of this section or the application thereof to other persons and circumstances.

§ 2800.12 Declaratory rulings

(a) On petition of any person, the division may issue a declaratory ruling with respect to (1) the applicability to any person, property, or state of facts of any rule or statute enforceable by the division, or (2) whether any action by the division should be taken pursuant to a rule or regulation.

(b) A petition for a declaratory ruling must be submitted in writing to the director by certified mail, return receipt requested, addressed to New York State Division of the Lottery, One Broadway Center, P.O. Box 7500, Schenectady, NY 12301-7500. The returned postal service receipt shall constitute proof of service, which shall be deemed effective on the day the petition is received. The petition shall state that a declaratory ruling is requested, cite the statute, rule, or regulation relied upon, and set forth a complete and precise statement of the state of facts, persons or property with respect to which a ruling is sought, together with a full disclosure of the petitioner's interest. Any facts alleged in the petition shall be verified under oath by the petitioner.

(c) Counsel to the division shall receive any such petition and recommend a responsive declaratory ruling or advise that a petition should be declined by the division as incomplete, ambiguous, inappropriate, or unnecessary under the facts and circumstances recited therein.

(d) The issuance of a declaratory ruling shall be within the discretion of the director, and nothing contained in this section shall confer upon any person the right to compel the division to issue a declaratory ruling. Within 60 days from the receipt of any petition seeking a declaratory ruling with respect to whether any action by the division should be taken pursuant to a rule, the division shall issue either a declaratory ruling or a statement declining to issue a declaratory ruling.

(e) The division shall be bound by the conclusions stated in any declaratory ruling unless such ruling is (1) changed by the division to be effective prospectively; (2) altered or set aside by a court of competent jurisdiction; or (3) superseded by duly enacted legislation.

(f) No opinion, letter, announcement, or other communication by the division shall be deemed to be a declaratory ruling unless it contains a statement that it is a declaratory ruling or it is a ruling issued in response to a petition submitted pursuant to this section.

PART 2801

LOTTERY SALES AGENTS

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§ 2801.1 Application

Any person may apply for a license to become a lottery sales agent by filing an application form with the division, and any supplements thereto as may be required.

§ 2801.2 Eligibility

No license as a lottery sales agent shall be issued to any person in business exclusively as a lottery sales agent. Before issuing such a license, the division shall consider such factors as:

- (a) financial responsibility and security of the business or activity in which such person is engaged;

- (b) accessibility of the place of business or activity to the public;
- (c) sufficiency of existing licenses to serve the public convenience;
- (d) whether the place of business or activity is predominantly frequented by persons under the age of 18 years;
- (e) volume of expected sales;
- (f) conviction of any offense as defined in the Penal Law;
- (g) veracity of information supplied on the application form or any supplement thereto;
- (h) the applicant's indebtedness, if any, to State or local government; and
- (i) the business experience and reputation of the applicant.

§ 2801.3 Minors

No person under legal age shall be licensed as an agent.

§ 2801.4 Residency

Licenses shall be issued only to persons who are residents of this State or whose place of business is located in this State.

§ 2801.5 Issuance of license

The division shall license as agents to sell lottery tickets only such persons as in its opinion will best serve public convenience consistent with the purposes of the act.

§ 2801.6 Duration of license

An agent's license shall remain in force until the termination date indicated upon the license, unless previously suspended, revoked or terminated by the division in accordance with the provisions of the act or those set forth in this Part. The division may extend the initial or subsequent licensing period at its discretion, or may set starting and expiration dates for new or renewed licenses. Renewal of licenses may be required by the director upon reasonable notice to existing licensees. A license fee may be established and required at the discretion of the director.

§ 2801.7 Display of license

Every licensed agent shall prominently display his license in an area visible to the general public in each place of business where lottery tickets are sold. In addition, the agent shall display an authorized lottery agent decal on a prominent front window or door of the agent's premises so as to be readily visible to the public. The agent shall maintain and display all informational and promotional material in connection with ticket sales of each lottery in accordance with instructions issued by the division.

§ 2801.8 Agent identification card

A wallet-size agent identification card will be issued to each licensed agent for presentation to bank tellers and others when picking up or returning lottery tickets to authorized banks and depositories. No bank or depository shall issue lottery tickets unless the agent, or his designee, presents an agent identification card bearing the authorized signature of the sales agent or his duly authorized representative. Loss of the agent identification card must be reported immediately by the agent to the division and to the servicing bank.

§ 2801.9 Temporary licenses and special licenses

(a) The division may issue a temporary license under such terms and conditions as it may deem necessary and proper to effectuate the provisions of the act.

(b) The division may issue a special one-time license upon application approved by a local school district board or the governing board of a non-public school, to sell lottery tickets for one drawing only per calendar year as authorized pursuant to section 1605(c) of the Tax Law. A special license to sell tickets for an instant game or any game other than one for which a weekly drawing is held shall be valid for seven calendar days only.

§ 2801.10 Conditions of licensing

Upon issuance of a license, the agent shall agree to the following conditions:

(a) The agent shall comply with the provisions of the act, and any rules, regulations, and instructions promulgated or issued by the division.

(b) The agent shall offer tickets to the public for sale during normal business hours.

(c) The agent shall utilize, display and maintain authorized displays, notices, entry boxes and other marketing materials used in connection with ticket sales as instructed by the division.

(d) All tickets accepted by the agent from the division, or from its distribution or safekeeping depository, are deemed to have been purchased by the agent at the price established by the division, less appropriate commission discounts, if any. At the discretion of the director tickets may be released to agents on a consignment basis and he may agree to accept for credit any unsold tickets; however, if unsold tickets are not returned to the authorized distribution or safekeeping depository on or before the stated deadline, the agent is responsible to pay for them in full.

(e) The agent shall maintain current and accurate records of all transactions in connection with ticket sales in conformity with the rules, regulations and instructions relating thereto, as promulgated or issued by the division.

(f) The agent shall redeem for cash all lottery tickets with a value of \$ 25 or less.

(g) The agent shall make available to representatives of the division upon request for inspection and audit such records as he may be required to maintain.

(h) The agent's license issued under this Chapter may be suspended, revoked, or its renewal rejected.

(i) The agent shall hold the division harmless from any liability which may arise as a result of conducting lottery ticket sales.

(j) A lottery sales agent is an independent contractor, and any contractual or tortious liability he may incur in connection therewith shall be the sole responsibility of the agent.

(k) The agent's license shall be issued for a fixed period of time, and thereafter renewed on an annual basis unless such licensing period shall be extended or changed at the discretion of the director.

(l) The agent shall surrender to the division upon request the license, agent identification card, and all lottery forms and materials supplied by the division upon the suspension, revocation, or termination of such license, including temporary suspension.

(m) Lottery agents and distributors are responsible for all lost, stolen, or destroyed tickets provided by the lottery and will pay for such tickets at the appropriate settlement time. The lottery will not reimburse agents or distributors for such tickets. Lottery tickets are valuable and should be handled with care.

§ 2801.11 License fee

(a) A fee for a license as an agent may be required in an amount determined by the director and is payable at the time of license issuance. The fee is intended to cover the cost of licensing and is not refundable.

(b) A license renewal fee may be charged annually in an amount determined by the director. The fee is intended to cover the cost of the licensing renewal operation and is not refundable.

§ 2801.12 Bonding of agents

The division may require a surety bond from any licensed agent in such amount as it may determine so as to avoid monetary loss to the State because of an agent's activities in the sale of tickets. The bond, if required by the division, is a condition of becoming or continuing as an agent. A financial statement may also be required of any person applying for a sales agent license. The division may also seek additional surety or guarantee of financial security consistent with the purposes of the act, as may be deemed appropriate.

§ 2801.13 Non-transferability of license

A license issued pursuant to this Chapter shall not be transferable. If the business to which a license is issued changes hands or the ownership or type of business undergoes a substantial change, the division must be notified immediately of such change in writing. At its option the division may terminate or continue the license of such agent. A substantial change in ownership shall mean a transfer of 50 percent or more of the equity of any business licensed pursuant to this Chapter. If the business

for which a license has been issued changes its location, said license shall terminate as of the date of the change and an application for a new license must be filed with the division. Every such change of business location or contemplated change of ownership shall be reported in writing to the division at least 20 days prior to any proposed change.

§ 2801.14 Access to agent's records

Licensed agents shall grant access to its books and records, together with any and all papers and information required for purposes of auditing at such times as deemed appropriate by the division.

§ 2801.15 Location of sales

The sale of lottery tickets shall be made only pursuant to a lottery agent's license at the specific location named therein or at such other locations as the director may approve.

§ 2801.16 Conversion to vending machines or manual sales

Upon mutual agreement between an agent and the division, any licensed location may be converted from a manual-type operation to a vending machine-type operation, and from a vending machine-type operation to a manual-type operation, for the sale of lottery tickets.

§ 2801.17 Agent inspections

All licensed agents shall allow inspections of their premises upon request by authorized employees of the division to determine whether said agents are complying with the provisions of the act and the rules and regulations of the division. Inspections may be made without notice during normal business hours.

§ 2801.18 Sales by lottery division

The division itself may sell lottery tickets at any branch location or at any other location which it may establish in the State.

§ 2801.19 Suspension and revocation of license

(a) At the discretion of the director, the agent's license may be suspended, revoked, or its renewal rejected for any of the following reasons, or any combination thereof:

(1) failure to account for lottery tickets received or the proceeds of lottery tickets or failure to comply with instructions of the division concerning licensed activity;

(2) conviction of any offense as defined in the Penal Law;

(3) failure to file any returns or reports or to keep records or to pay any fee or tax as may be required by this Chapter in or pursuant to the act;

(4) fraud, deceit, misrepresentation or conduct prejudicial to public confidence in the Lottery;

(5) failure to furnish a surety or other bond in such amount as may be required by the division;

(6) the number of lottery tickets sold by the lottery sales agent is insufficient to meet administrative costs, and public convenience is adequately served by other licensees;

(7) a material change since issuance of the license with respect to any matter required to be considered by the division as provided in either the act or this Chapter;

(8) when the agent violates any of the provisions of the act, rules and regulations of the division, or instructions of the director;

(9) whenever the agent does not display lottery point-of-sale material in a manner readily available to the public;

(10) whenever the director finds that the agent's experience, character, and general fitness are such that his participation as a lottery sales agent is inconsistent with public interest or convenience or for any other reason within the discretion of the director; or

(11) the failure to notify the division, in writing, within a reasonable time of any arrest, indictment, or service of a summons, or conviction for any felony whether within or without the State of New York, or within or without the United States, occurring during the term of the license or the renewal thereof.

(b) Upon termination of an agent's license for any reason, the agent shall go to his assigned bank on a date designated by the division for the purpose of rendering his final lottery accounting. Surrender of the agent's license and other material provided by the division shall be as prescribed by the director. Upon failure of any agent to settle his accounts on or before the designated date, the division may take steps to impose such penalties and exercise such enforcement powers as may be provided for by law.

§ 2801.20 Agent accountability for tickets

(a) Tickets that cannot be accounted for by the agent on the settlement date, regardless of reason, shall be deemed sold to the agent.

(b) The division reserves the right to require a claimant of any winning ticket to disclose the location of person from whom said claimant purchased said ticket.

(c) The division reserves the right to hold prize money in escrow pending the findings of any investigation by the division or by other legal authority, when the claimed ticket for that prize has been reported lost or stolen from a licensed agent.

(d) It is the responsibility of the sales agent to report any lost or stolen tickets at once both to local law enforcement officials and to the division.

§ 2801.21 Consignment of tickets to agents

Upon instructions of the division, banks and depositories shall consign lottery tickets to agents and shall collect tickets which the agents have not sold. Bank depositories shall not deliver tickets to an agent who has failed to settle his account with respect to outstanding tickets.

§ 2801.22 Assignment of agent to a bank

After an agent's application has been accepted and approved by the division, the agent shall be licensed and assigned to a bank. Whenever possible the bank requested by the agent will be assigned. However, if this is not possible, the agent will be assigned to another bank or to the alternate bank requested by the agent. The bank shall be notified of the agent's authorization at the same time the agent receives his notification of assignment.

§ 2801.23 Authorization to request tickets

The agent shall notify the bank and the division of the names and addresses of all persons authorized to request and receive tickets from the bank. These authorized representatives must affix their signatures to the agent identification card and this card must be presented to the bank at time of receipt of tickets. The division reserves the right to disallow such participation of any person so authorized by the agent. The agent must conduct all transactions at the branch bank to which he has been assigned by the division, or with the division directly, if authorized.

§ 2801.24 Agent bonus plan

(a) The director may at his option establish for any game an agent bonus plan for agents who sell winning tickets. The bonus shall be paid only to persons authorized to sell lottery tickets as licensed lottery sales agents.

(b) The agent bonus plan is that which is shown below, unless some other plan is established by the director for a particular game:

<u>Prize</u>	<u>Bonus Prize*</u>
Less than \$ 1,000	\$ 0
\$ 1,000.00 winning ticket	\$ 10.00
\$ 2,500.00 "	\$ 25.00
\$ 5,000.00 "	\$ 50.00
\$ 10,000.00 "	\$ 100.00
\$ 15,000.00 "	\$ 150.00
\$ 20,000.00 "	\$ 200.00
\$ 25,000.00 "	\$ 250.00
\$ 50,000.00 "	\$ 500.00
\$ 1,000.00 a week for life (a million dollars)	\$ 5000.00

 * FOOTNOTE: For amounts other than those shown, bonus prize shall be equal to one percent of the prize won on the ticket except that for tickets valued at more than \$ 100,000 the prize will be one-half of one percent.

(c) The director may establish the criteria for awarding agent bonuses for any lottery game as well as the prizes to be awarded for that game.

§ 2801.25 Deposit of lottery revenues by agents

(a) All agents are required to deposit in a designated depository or bank all monies received by such agents from the sale of lottery tickets, less agent compensations, and credit, if any, for redeemed tickets along with reports of receipts and transactions on forms provided by the division for such purpose. In preparing such forms and reports, agents shall refer to the vendor (agent) manuals and other instructions made available by the division for each lottery game.

(b) All tickets accepted by an agent from the bank or depository are deemed to have been purchased by the agent, unless returned to the bank or depository from which they were obtained within the time specified by the division, or to a designated lottery official, and the purchase price shall be paid to the lottery, less the appropriate commission discount, if any. The agent is responsible for lost, stolen, or missing tickets not returned, and must pay for such tickets at the bank as scheduled by the division.

(c) The division may authorize any person to perform functions, activities, or services in connection with the operation of the lottery as it may deem advisable to accomplish the purposes of the act. Such functions, activities or services shall constitute lawful functions, activities or services of such person. Banks shall provide the division with statements of all transactions as required by the division.

§ 2801.26 Notification of prize winners

At the conclusion of each drawing which results in the selection of numbers, every agent shall cause the winning numbers to be posted in a prominent place in full view at the agent's business location. In addition, any other numbers for bonus awards or other prizes should be posted in compliance with instructions from the division.

§ 2801.27 Ticket sales

(a) No person shall sell a ticket at a price greater than that fixed by the Division, and no person other than a licensed lottery sales agent shall sell a lottery ticket except that nothing in this section shall prevent any person from giving lottery tickets as premiums to customers, employees, or others.

(b) No ticket for a lottery may be sold after the commencement of a drawing for that particular lottery or after a final ticket sales date announced by the director.

(c) No ticket shall be sold to any person under the age of 18 but this shall not prohibit the purchase of a ticket for the purpose of making a gift by a person 18 years of age or older to a person less than that age.

(d) All ticket sales shall be final and no ticket return shall be accepted by an agent except as otherwise provided by the division.

§ 2801.28 Special lottery agents

(a) The division may license special lottery agents, subject to such conditions or limitations as the director, in his discretion, may deem appropriate. These limitations or conditions may include, but are not limited to:

- (1) length of license period;
- (2) hours or days of sale;
- (3) location of sale;
- (4) specific persons who are allowed to sell lottery tickets;
- (5) specific sporting, charitable, social, or other special events where lottery tickets may be sold in conformity with the act.

(b) Special licensed agents shall be subject to this Chapter wherever applicable.

§ 2801.29 Penalty on delinquent accounts

The director may impose a penalty of 1 1/2 percent monthly (18 percent per annum) on any monies due to the Lottery from sales agents whose accounts are delinquent over 30 days.

**PART 2803
PAYMENT OF PRIZES**

Sec.

- 2803.1 Information furnished by winning ticket holder
- 2803.2 Requirement of additional information
- 2803.3 Time of payment of prize
- 2803.4 Place of payment
- 2803.5 Manner of payment
- 2803.6 Discharge of State liability upon payment
- 2803.7 Payments to single claimant only
- 2803.8 Payment of prizes to persons under 18 years of age
- 2803.9 Prizes payable after death of prize winner
- 2803.10 Unclaimed and abandoned prize money
- 2803.11 Prize rights un-assignable
- 2803.12 Publicity release
- 2803.13 Prize payable for life

§ 2803.1 Information furnished by winning ticket holder

Each claimant shall fill out a winner claim form as specified in the rules of each game and surrender his winning ticket.

§ 2803.2 Requirement of additional information

In its discretion, the division may require such additional information, notarized statements, or other evidence, as it may deem appropriate, to be supplied by a claimant.

§ 2803.3 Time of payment of prize

Payment of prizes shall be awarded as soon as reasonably possible after the claim has been filed, validated and verified, and the claimant has been identified to the satisfaction of the division.

§ 2803.4 Place of payment

Payment of prizes shall be made to the claimant or claimants at the address or addresses furnished to the division on the claim form.

§ 2803.5 Manner of payment

(a) Cash payment.

(1) A prize payable on a winning instant game ticket having a value of \$ 25 or less may be obtained in cash from the lottery sales agent who sold the ticket.

(2) A prize payable on a winning instant game ticket having a value of \$ 100 may be obtained in cash from any lottery sales agent.

(3) A prize payable on a winning computerized game ticket having a value of up to

and including \$ 600 may be obtained in cash from any lottery sales agent participating in the computer network from which such ticket was sold.

(b) Check payment.

(1) Any prize over \$ 600 shall be payable only by check.

(2) Any prize may be claimed by mailing a completed prize claim form to the division at the address announced by the division for such purpose. Any prize paid by mail shall be payable only by check.

(3) Any prize paid at an office of the division shall be payable only by check.

(4) Any lotto subscription prize shall be payable only by check.

§ 2803.6 Discharge of State liability upon payment

The State and its agents, officers, employees, the division and the director and the agents, officers and employees shall all be discharged of any and all liability upon payment of a prize to a ticket holder.

§ 2803.7 Payments to single claimant only

(a) A prize form shall be filed in the name of a single legal entity as claimant, either one individual or one organization. Multiple payees are not permitted, except as may be authorized pursuant to subdivision (d) of this section.

(b) A claim may be entered in the name of an organization only if the organization possesses a Federal employer identification number (FEIN) issued by the Internal Revenue Service and such number is shown on the claim form. Groups, family units, clubs, or organizations without a Federal employer identification number shall designate one individual in whose name the claim is to be filed.

(c) If a claim is erroneously entered with multiple claimants, the claimants shall designate one of them as the individual recipient of the prize, or, if they fail to designate an individual recipient, the division may designate any one of the claimants as the sole recipient. In either case, the claim shall then be considered as if it were originally entered in the name of the designated individual and payment of any prizes won shall be made to that single individual.

(d) Under exceptional circumstances, payment may be made to multiple payees at the discretion of the director.

§ 2803.8 Payment of prizes to persons under 18 years of age

(a) If the person entitled to a prize or any winning ticket is under the age of 18 years and such prize is less than \$ 5,000, the division may make payment by delivering to an adult member of the minor's family, or to the minor's guardian, a check or draft for the prize amount payable to the order of such minor.

(b) If the person entitled to a prize is under 18 years and the prize is \$ 5,000 or more, the division may make payment to such minor by depositing the amount of the prize in any bank to the credit of any adult member of the minor's family or guardian of the minor as custodian for such minor. The person so named as custodian shall have the same duties and powers as a person designated as a custodian in a manner prescribed by part 4 of article 7 of the Estates, Powers and Trusts Law.

(c) In either event, the division shall be discharged of all further liability upon payment of prizes to a minor in accordance with this section. The division may withhold prize payment until satisfactory evidence, including, but not limited to, notarized statements, or other evidence of family relationship, guardianship, custodianship, or other matter deemed appropriate, is established on behalf of the minor.

§ 2803.9 Prizes payable after death of prize winner

Payment of prize money shall not be accelerated before its normal date of payment because of the death of the prize winner. All prizes or any portion thereof which shall remain payable at the time of death of the prize winner shall be paid to the estate of such deceased prize winner, unless the division is directed otherwise pursuant to an appropriate judicial order. If the deceased prize winner has failed to exercise any power of appointment, the payment will be made directly to those persons who would succeed to the assets of the deceased prize winner under the laws of the State of New York. Upon payment, as provided by this section, the division shall be discharged of any further liability.

§ 2803.10 Unclaimed and abandoned prize money

(a) No prize claim shall be valid if submitted to the division following the expiration of a one-year time period from the date of the drawing or from the close of the game in which the prize was won, and the person otherwise entitled to such prizes shall forfeit any claim or entitlement to such prize moneys. All unclaimed prize money shall be transferred to the State Lottery Fund as required by law.

(b) The division may determine that a prize has been abandoned whenever more than eighteen months have elapsed since a prize payment check was mailed to the last known address of the claimant and either such check has been returned undelivered by the United States postal service and the claimant cannot be located or such check has not been returned undelivered and has not been presented for payment. Any prize so determined to have been abandoned shall be paid to the State Comptroller for administration pursuant to the Abandoned Property Law.

§ 2803.11 Prize rights un-assignable

No right of any person to a prize shall be assignable, except that any prize may be paid to the estate of a deceased prize winner, and except that any person, pursuant to an appropriate judicial order, may be paid the prize to which the winner is entitled. For the purposes of this section, payment of a prize or a portion thereof to the Department of Social Services either (i) pursuant to an agreement under Tax Law section 1613-a where the Department of Social Services has informed the

division that the winner has failed to obey a court order requiring the winner to support his or her dependents or (ii) pursuant to an agreement under Tax Law section 1613-b where the Department of Social Services has identified the winner as a recipient of public assistance benefits who is liable to reimburse the State for such benefits, shall be deemed to be payment pursuant to an appropriate judicial order. The division shall be discharged of all liability upon payment of a prize pursuant to this section.

§ 2803.12 Publicity release

(a) Each prizewinner grants to the Director the right to use his or her name, city of residence, any photograph, image, and video or audio recording in order to publicize his or her winnings for marketing, advertising or other purposes of the Division. At the discretion of the Director, photographs or images of winners may be taken and used for publicity or to compile a photographic or other visual record of winners.

(b) The Division requires personal information from prize winners pursuant to its authority under Tax Law Section 1604 to operate and administer the New York Lottery which includes the marketing and advertising of the New York Lottery and the identification of the person entitled to a prize award. The name and city of residence of prize winners, among other things, shall be regarded as public information; however, it shall be the policy of the Division not to release the street address or telephone number of prize winners, except as may be required pursuant to lawful authority or urgent necessity.

(c) Each prize claimant shall cooperate with the Division by attending and participating in a news event and releasing a public announcement if required by the Division. The Division may defer the determination of a prize claim pending a claimant's participation in a news conference, announcement, the conclusion of any investigation, or litigation concerning the right to a prize.

§ 2803.13 Prize payable for life

(a) When a claim has been filed on behalf of multiple claimants on a jackpot ticket eligible for a prize payable for life, such as the "\$ 1,000 a week for life" prize, prior to the jackpot drawing wherein such prize is to be awarded:

(1) The multiple claimants shall designate which one of them is to be identified as the person on whose life the prize is to be paid, and they shall execute an agreement evidencing such intent.

(2) In the event that the multiple claimants fail to execute such an agreement as provided in subdivision (a) of this section, the lottery shall designate the youngest of such multiple claimants as the person on whose life such prize is to be paid.

(b) The age of person on whose life the prize is to be paid may be initially determined by that which is shown on a driver's license or other official document, subject to later verification by the division of birth records. Initial payments may be made based on the first determination of age but once official birth records are

established the prize payment will be based on that date.

(c) When there are multiple claimants for "\$ 1,000 a week for life" prize, and the life on which the prize is payable, as determined by subdivision (a) of this section, is terminated by death, the payment on the prize is immediately established as a top limit of \$ 1,000,000. The pro rata share of the decedent will be paid to the decedent's estate and in accordance with lottery rules and regulations. Pro rata payments to each other living multiple claimant or claimants for the same prize will continue until a total of \$ 1,000,000 in prize money has been paid.

(d) The term life as used in this section means the life of a natural person.

(e) In the event that a claim is filed on behalf of a legal entity, other than a natural person, and such legal entity is eligible for a prize payable for life, the legal entity shall designate an officer or member of that legal entity as the person on whose life such prize is to be paid, and shall execute an agreement evidencing such designation. If for any reason the legal entity fails to execute evidence of such designation, the division may designate the chief officer of such legal entity, or some other person if deemed more appropriate in its discretion, as the person on whose life the prize is to be paid.

PART 2804 LOTTERY DRAWINGS

Sec.

- 2804.1 Lottery Drawings
- 2804.2 Time of Drawings
- 2804.3 Place of drawings
- 2804.4 Manner of conducting drawings
- 2804.5 Number and amount of prizes
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- 2804.15 Subscription application requirements
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- 2804.17 Payment of subscription prizes
- 2804.18 Subscription disputes
- 2804.19 Subscription miscellaneous

§ 2804.1 Types of drawings

Drawings will be held for each lottery game using such methods and equipment approved by the director so as to insure random equal chance among all participants

and ticket buyers. These drawings will take the form designated by the director in a directive and may include, but are not limited to, weekly number drawings, special bonus drawings, semi-finalist and finalist drawings, winning ticket drawings, qualifying drawings, millionaire drawings, and super drawings.

§ 2804.2 Time of drawings

Lottery drawings will be held at the times designated by the director in a directive.

§ 2804.3 Place of drawings

Drawings shall be held at locations approved by the director. Drawings shall be open to the public and representatives of the news media.

§ 2804.4 Manner of conducting drawings

The manner of conducting drawings shall be announced and designated by the director in a directive, in accordance with the rules and regulations governing each lottery game. The manner of conducting drawings shall be designed to insure maximum fairness to each contestant and ticket buyers in general.

§ 2804.5 Number and amount of prizes

For each lottery game, the director shall designate the number and type of prizes to be awarded in a directive. The number of winners in each drawing may vary depending upon game design, the distribution of tickets sold, the number of tickets sold, and the number of valid winning tickets claimed.

§ 2804.6 Other lottery games or drawings

(a) The division may establish special lottery games for specified time periods, or special promotion drawings in connection with the previous lottery being conducted. The prizes for such games or drawings may include cash prizes, or prizes of primary value, such as vacation trips, automobiles, or other tangible items, in addition to, in lieu of cash prizes, as determined by the division. The retail cash value of the tangible or nontangible items offered shall be considered only as a guide to establishing the value of the prize for marketing and promotional purposes, and such announced value may not reflect the actual cost to the division. The nature and number of prizes will be determined by the division within the total prize requirements of the act and the game design. The drawing of promotional prizes may be held independently or in conjunction with other drawings.

(b) A winner of a regular lottery prize may also be entitled to a promotional prize or follow-on prizes as approved by game design and drawing system used.

(c) Drawings and manner of conducting said drawings will be determined by the division.

(d) The director may also establish incentive awards for lottery agents and persons selling any special lottery game or promotional drawing ticket and also may, at his discretion, discontinue such awards without prior notice.

§ 2804.8 Postponement of drawings

The director may postpone any drawing and publicize the same if he finds, in his discretion, that such postponement will serve and protect the public interest.

§ 2804.9 Directives

A directive shall be issued by the director for each drawing which details the type, time, place and manner of drawing; the number and amount of prizes to be awarded, and the procedures or changes in procedures applicable to that drawing.

§ 2804.10 General definitions, qualifications, restrictions, validations and rules applying to all Lottery games

(a) Director means the Director of the New York State Lottery, or any other person to whom his authority is lawfully delegated.

(b) All prizes must be claimed within one year of the announced end of any game, unless a shorter claim period is established in the particular rules and regulations of such game.

(c) Ticket and/or stub responsibility.

(1) Lottery tickets or stubs are bearer instruments.

(2) The Lottery shall not be responsible for:

(i) lost or stolen tickets or stubs;

(ii) tickets or stubs claimed by a player in error for a lower prize at a vendor;

(iii) tickets or stubs that are not intact;

(iv) tickets that are mutilated, altered, reconstituted, counterfeit in whole or in part, or tampered with in any manner, or miscut;

(v) tickets that have not been issued in an authorized manner, or are misregistered, defective, or printed or produced in error; or

(vi) tickets from a book appearing on an omissions list submitted by its manufacturer.

(d) To be valid, a ticket must pass all additional confidential and security validation tests of the Lottery.

(e) Any ticket which does not conform to the requirements of subdivision (c) (2) or (d) of this section shall be considered null and void, and will not be paid. However, the director may, at his sole discretion, replace such void ticket with an unplayed ticket from the game or an equivalent one in sales price from any other game.

(f) In all and any events, the liability and responsibility of the Lottery, for any tickets described or disputed in this section, shall be the replacement of such ticket in that

or an equivalently priced other lottery game.

(g) No lottery ticket shall be sold to or purchased by and no lottery prize shall be paid to any of the following persons:

(1) any officer or employee of the division; or

(2) any contractor, subcontractor, or consultant, or officer or employee of a contractor, subcontractor, or consultant, if such person is directly involved in the production of lottery tickets, the operation or observation of lottery games or drawings, or the processing of lottery prize claims or payments; or

(3) any person subject to a contract with the division if such contract contains a provision prohibiting such person from purchasing a lottery ticket or receiving a lottery prize; or

(4) any spouse, child, brother, sister or parent residing as a member of the same household in the principal place of abode of any of the foregoing persons. This section shall not be deemed to prohibit the sale of a lottery ticket or the payment of a lottery prize to an officer or employee of the division or to a contractor, subcontractor, or consultant or to an officer or employee of a contractor, subcontractor, or consultant if such sale or prize payment is not for the individual benefit of such person and is made in connection with an official investigation, audit, marketing effort or other activity authorized by the director.

(h) In accordance with all applicable provisions of law, Federal, State and local withholding taxes shall be withheld by the Lottery from prize payments as may be required.

(i) The director may at any time, in his sole discretion, announce a termination date for any game, subsequently recommence any game, or extend termination or closing dates for any game. When a game is terminated, no further tickets will be sold.

(j) The payment of prizes to persons under 18 years of age, and to those who may die before receiving any or all of a particular prize, shall be paid as prescribed in applicable lottery rules and regulations.

(k) The State shall be discharged from any liability after the payment of prizes as prescribed in these rules and regulations.

(l) Agents will sell tickets in book, page or numerical order and shall not exchange books or tickets with other agents.

(m) Agents are prohibited from playing lottery tickets using any method other than fair chance or any method that is contrary to the principle that every ticket has an equal and random chance of winning.

(n) In purchasing a ticket, the customer agrees to comply with and abide by all laws, rules and regulations, and final decisions of the Lottery, as well as procedures established by the director for the conduct of any game.

(o) Notwithstanding the provisions of any other rule or regulation, the exact number

and amount of prizes to be paid at any grand prize or millionaire drawing shall be as determined in directives issued by the director, which directive shall also govern details and procedures for such drawings.

§ 2804.12 Subscription program

(a) A subscription program may be established at the discretion of the director for any division game(s). The subscription program may permit a subscriber to play the same number selections for a period of consecutive drawings over a stated period in such games as the director may decide.

(b) Entry into a subscription program will require the completion and submission of either (1) a subscription application form or (2) a renewal application form. The subscriber will be required to provide his or her social security number on the respective application form so that prizes requiring federal reporting or withholding may be automatically sent to the winning subscriber. An application for a group subscription must contain the names, addresses, and social security numbers of each group member.

(c) By providing the social security number, the subscriber is authorizing the division to retain and use the number for the purpose of tax reporting and any other lawful purpose of the Division. An application for a group subscription must contain the names, addresses, and social security numbers of each group member. No group may exceed ten members.

§ 2804.13 Subscription definitions

(a) Application form or application means either the subscription application form or the renewal of such application form.

(b) Confirmation letter means the paper or electronic correspondence sent to a subscriber from the division confirming the game(s), game numbers for each game panel played, the type of plan, the effective date, and the expiration date.

(c) Effective date means the game's first drawing date for which a subscription is effective.

(d) Expiration date means the last drawing date for which a subscription is effective.

(e) Game numbers means the numbers selected for each of the game panels played on an application form.

(f) Game panel means the electronic panel and/or paper panel on which game numbers are chosen.

(g) Group means two or more individuals sharing a game subscription whose individual qualifications meet that of an individual subscriber.

(h) Group representative means the individual designated on a group application form as the person selected by the group subscribers to act on behalf of the group in handling any communications and prize payments related to the subscription.

(i) Plan means the game(s) played, the number of consecutive games played and the duration of the subscription as determined by the number of weeks selected by the subscriber.

(j) Quick Pick means the option for a subscriber to have game numbers randomly selected by a computer. Once selected, the same quick pick numbers remain valid and will be used for each drawing for the duration of the subscription.

(k) Subscriber means either the individual or the group identified on an application for as the person(s) entitled to the winning prize.

(l) Subscriber identifying information means the name, address, subscription number, social security number or tax payer identification number of the subscriber or each member of a group.

(m) Subscription costs means the cost of the subscription purchased by the subscribers as defined in Part 2804-14 of these rules.

(n) Subscription file means a file maintained by the division containing subscription information and used in the price determination process.

(o) Subscription number means the number assigned by the division to a subscription record when the original application is processed.

(p) Valid Subscription Entry means to be a valid subscription entry a subscription must include the following: Subscriber identifying information (as defined herein), selected payment option, game numbers entered on the appropriate division computer file which is the official record of subscription entry.

(q) Valid Group Subscription Entry means to be a valid group subscription entry a subscription must include the following: Subscriber identifying information (as defined herein) for each member of the group, selected payment option, game numbers entered on the appropriate division computer file which is the official record of group subscription entry.

§ 2804.14 Subscription costs

(a) For each subscription, a minimum of one game panel must be selected for a minimum number of weeks or drawings, as determined by the division.

(b) A subscription may be for one, two, or three game panels, or a greater number of game panels as may be determined by the division.

(c) The cost of a subscription plan shall be determined by the division. The division may establish a subscription account program through which a player or players may purchase a subscription or subscriptions and receive payment of a prize, as determined by the division. The division may require that a player or players maintain a minimum balance in such a subscription account to continue to participate in the program.

(d) The division reserves the right to alter, temporarily or permanently, the costs of a subscription plan at the discretion of the director. The division reserves the rights to suspend or cancel any drawing or the game itself, change the prize structure, frequency of draws or draw dates. In the event of such a change, an affected subscriber will receive participation in a revised game, equivalent in value to the remainder of his or her subscription, or a refund, at the sole option of the division.

(e) Any determination by the division described in this section may be made for any of the following reasons:

- (1) to make the subscription program more appealing or convenient for players;
- (2) to further the division's mission of raising revenue for aid to education; or
- (3) to allow the division to administer the subscription program more effectively.

§ 2804.15 Subscription application requirements.

(a) To be accepted for entry without changes, a subscription application must meet the following requirements:

- (1) Each game panel must contain the required amount of unduplicated game numbers selected from the numbers available for the game that the applicant indicates on his or her application form. If a game panel submitted by an applicant contains no game numbers or fewer than the required amount of game numbers, the Quick Pick option may be used to randomly select game numbers. If an applicant submits an application with more than the required amount of game numbers circled in a game panel, the division may select the required number of game numbers consecutively from among such selected numbers. All other numbers may be disregarded.
- (2) The application must include the applicant's identifying information, including identifying information for each member of a group applicant. If an application is submitted without complete applicant identifying information, the division may seek additional information from the applicant. Regardless of whether the applicant responds with additional information requested by the division, the application may, nevertheless, be accepted if there is sufficient information to identify by name at least one individual applicant or one individual member of a group applicant. In such case, the division may pay any prize won by the subscription to any person identifiable as an applicant or as a member of a group applicant from the incomplete applicant identifying information submitted with the application, and such payment may be reported to the appropriate taxing authorities as income paid to such person with any required withholding tax to be credited to such person.

(b) An application may be rejected for any of the following reasons:

- (1) If the application is illegible in whole or in part;
- (2) If the application includes a form of payment that is not acceptable to the division;
- (3) If the applicant is under the age of 18; or
- (4) If the applicant does not submit a New York State address.

(c) A subscription may be terminated after acceptance if, before or after the start date, the division is notified that the payment for the subscription is invalid, e.g., a check returned for insufficient funds. In such event, the subscription shall be deemed invalid and no prizes will be paid to the applicant during any period in which the subscription was invalid.

§ 2804.16 Valid subscription entry

To be a valid entry, a subscription must meet the following requirements:

(a) To be eligible to win a prize, an application form, including the subscriber identification information, lump sum option (if selected), and the game numbers must be entered into the Division's subscription file to create the official record of subscription entry.

(b) A confirmation letter (paper or electronic) shall be issued by the division to subscriber confirming a valid subscription entry has been received.

§ 2804.17 Payment of subscription prizes

(a) Prizes that exceed \$ 1.00 and are less than the threshold withholding amount for federal tax reporting will be remitted to an individual subscriber whose name appears on the application.

(b) Prizes that meet or exceed the threshold amount for federal withholding for an individual will be remitted to the individual subscriber whose name appears on the application form minus the required withholding amount.

(c) Prizes that are greater than \$ 1.00 will be remitted to an individual subscriber whose name appears on the application form. Prizes equal to or less than \$ 1.00 will be credited to the subscriber's account to reduce the cost of subscription renewal, or in the event the subscriber chooses not to renew his/her subscription, the prize winning(s) in the account will be remitted to the subscriber.

(d) For payment of a prize which does not meet the threshold amount for federal tax reporting to a group subscriber, payment will be made in one payment in the name of the group and the group representative as indicated on the application form, and remitted to the group representative.

(e) For payment of a prize which meets or exceeds the threshold amount for federal withholding to a group subscriber, a payment representing an equal share of the prize will be remitted to each individual member of the group. If the subscription or renewal application does not show the taxpayer identification number (social security number or federal employer identification number) of each group member, the division will withhold appropriate income taxes in accordance with the applicable back-up withholding rules.

(f) A group subscription entry will be treated as a single entry in the prize pool and shall also be treated as a single entry when determining if a prize in the Lotto or similar game is payable in annual installments as provided in Part 2817 of this Title.

§ 2804.18 Subscription disputes

(a) The division is not responsible for disputes between or among subscription group members.

(b) In any dispute with the division concerning the right to a subscription prize, the division shall have the right to resolve such dispute by paying the prize or refunding the subscription fee. If a refund is paid, the refund shall be based on the remaining unused value of the subscription and shall be the sole and exclusive remedy of the subscriber(s).

(1) If there is a discrepancy between the information set forth on an application form and the information set forth in a confirmation letter, the subscriber may ask the Division to resolve the discrepancy by written or electronic communication. After such a report is received by the division, the division shall resolve the discrepancy as soon as possible and issue a revised confirmation letter. Resolution may include, but is not limited to, cancellation of the subscription. No change in the subscription shall be effective until a revised confirmation letter is issued. No request to resolve a discrepancy shall be accepted after the effective date in the confirmation letter issued.

§ 2804.19 Subscription miscellaneous

(a) Furthermore, the New York Lottery, pursuant to its statutory authority, may from time to time add games to its subscription program (including but not limited to Mega-Millions).

(b) A subscription renewal must be processed at least twelve (12) business days prior to the expiration date of a current subscription in order to avoid a lapse in the subscription. A renewal application form containing current subscription number, games, game numbers, plan, effective date and expiration date will be sent to the subscriber either electronically or by mail. The division will make reasonable efforts to process renewal applications to assure no interruptions; however, the division shall not be responsible for an interruption if a renewal application is not processed in sufficient time.

(c) Once a subscription is entered into the subscription file, the funds paid for the subscription are not refundable.

(d) If a promotion offers a subscription, the division reserves the right to limit the number of promotional subscriptions that may be received by a person or group.

(e) The division reserves the right to exclude subscribers from participation in a promotion offering special payments or prizes.

(f) Any subscription commenced prior to the effective date of the subscription regulations set forth in this part shall be subject to the regulations that were in effect at the time such subscription was commenced. Any subscription commenced on or after the effective date of the subscription regulations set forth in this part shall be subject to this part.

**PART 2805
NEW YORK INSTANT LOTTERY**

Sec.

- 2805.1 New York Instant lottery
- 2805.2 Method of play
- 2805.3 Price
- 2805.4 Definitions
- 2805.5 Determination of prize winners
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- 2805.12 Governing law
- 2805.13 - 2805.14 (Reserved)
- 2805.15 Number and amount of prizes
- 2805.16 Agent conduct

§ 2805.1 New York instant lottery

There is hereby created a type of game known as an Instant Lottery Game. This Part pertains to all instant games.

§ 2805.2 Method of play

Tickets of any instant lottery game shall be played by removing the rub-off coating from play spots. The specific method of play will be published for each game in a game brochure readily available to the public.

§ 2805.3 Price

Unless otherwise indicated on the face of the ticket, an instant lottery ticket shall sell for \$ 1.

§ 2805.4 Definitions

(a) Director means the Director of the New York State Division of the Lottery or any other person to whom the director's authority is lawfully delegated.

(b) Play symbols, in those games utilizing play symbols, means those symbols that appear under each of the play spots on the front of the ticket.

(c) Play symbol caption, in those games utilizing play symbols, means the small printed material appearing below each play symbol which explains the play symbol. One and only one play symbol caption appears under each play symbol.

(d) Prize symbols means the dollar values associated with the prizes available in the game. Prize symbols appear on the face of the ticket in the play area and are generally covered with a rub-off coating.

(e) Prize symbol caption is the small printed material appearing below each prize symbol which explains the prize symbol. One and only one prize symbol caption appears under each prize symbol.

(f) Book-ticket number means the 11-digit numeric code which appears on the back of the ticket. The first seven digits are the book number, followed by a one-digit check number. The last three digits are the ticket number. A two-digit display printed game identification number shall be printed above the book-ticket number.

(g) Validation number means the unique eight-digit number found at the bottom of the rub-off coating covered play surface of the ticket.

(h) Agent validation code means the one-letter code which appears among the play symbols in varying locations on the main part of the ticket. The agent validation code is used by the lottery sales agent to verify winners and is covered by a rub-off coating.

§ 2805.5 Determination of prize winners

(a) The rub-off coating covering the play area on the ticket is to be rubbed off to determine winning or losing status as described in the appropriate game brochure.

(b) No portion of the display printing nor any extraneous matter whatever shall be usable or playable as a part of the instant game. The validation number is not a play symbol and may not be utilized as such.

(c) In all events, the determination of prize winners shall be subject to the ticket validation requirements set forth in this Part.

§ 2805.6 Ticket responsibility

(a) An instant lottery ticket is a bearer instrument.

(b) The division shall not be responsible for lost or stolen instant lottery tickets.

(c) The division shall not be responsible for tickets claimed by a player in error for a lower prize at an agent location.

§ 2805.7 Claim period

All prizes must be claimed within one year of the announced end of the game.

§ 2805.8 Ticket validation requirements

To be a valid instant lottery winning ticket, the following requirements must be met:

(a) Exactly one symbol must appear under each of the rub-off spots on the play surface of the ticket.

(b) Each play symbol must have a play symbol caption thereunder which must agree

with the play symbol.

- (c) Each of the play symbols must be present in its entirety and be fully legible.
- (d) Each of the play symbol captions must be present in its entirety and be fully legible.
- (e) Exactly one prize symbol must appear under each of the rub-off spots on the play surface of the ticket.
- (f) Each prize symbol must have a prize symbol caption thereunder which must agree with the prize symbol.
- (g) Each prize symbol must be present in its entirety and be fully legible.
- (h) Each prize symbol caption must be present in its entirety and be fully legible.
- (i) The ticket must be intact.
- (j) The book-ticket number, validation number, and agent validation code must be present in their entirety and must be fully legible. The validation number must correspond with the play symbols on the ticket in accordance with the official list of validation numbers on file at the offices of the division.
- (k) The ticket must not be mutilated, altered, unreadable, reconstituted, or tampered with in any manner.
- (l) The ticket must not be counterfeit in whole or in part.
- (m) The ticket must have been issued by the division in an authorized manner.
- (n) The ticket must not be stolen nor appear on any list of omitted tickets on file with the division.
- (o) The play symbols, play symbol captions, prize symbols, prize symbol captions, validation number, validation code, and book-ticket number must be right-side-up and not reversed in any manner.
- (p) The ticket must be complete, and not miscut, and have exactly one play symbol or prize symbol and exactly one play symbol caption or prize symbol caption under each of the rub-off spots on the front of the ticket; exactly one book-ticket number, exactly one agent validation code, and one validation number must appear on the ticket.
- (q) The validation number of an apparent winning ticket shall appear on the division's official list of validation numbers of winning tickets; and a prize for a ticket with that validation number shall not have been paid previously.
- (r) The ticket must not be blank or partially blank, misregistered, defective, or printed or produced in error.
- (s) The display printing must be regular in every respect and correspond precisely

with the artwork on file at the division.

(t) The ticket must pass all additional validation tests of the division. Any ticket not passing all the validation requirements of this section is void and ineligible for any prize.

§ 2805.9 Disputes

In the event a dispute between the division and the ticket bearer occurs as to whether the ticket is a winning ticket, and if no prize is paid, the director may, solely at his option, replace the disputed ticket with an unplayed ticket (or a ticket of equivalent sales price from any other current instant lottery game). This shall be the sole and exclusive remedy of the bearer of the ticket.

§ 2805.10 Agent compensation

The division shall allow a compensation rate of six percent for each ticket sold to an agent. The division shall allow such compensation by permitting an agent to deduct such compensation rate from the face value otherwise payable by the agent to the division.

§ 2805.11 Termination of the game

The director shall announce a termination date for each instant game.

§ 2805.12 Governing law

The ticket customer agrees to comply and abide by the provisions of the act and all rules and regulations of the division and all procedures established by the director for the conduct of the game.

§ 2805.15 Number and amount of prizes

Notwithstanding the provisions of any other rule or regulation, the number and amount of prizes to be paid for an instant lottery game shall be as determined by the division for each game. Prize structures developed and approved by the division shall be computed to provide for payment of the maximum amounts permissible by law.

§ 2805.16 Agent conduct

(a) Agents are prohibited from exchanging books of instant lottery tickets.

(b) Agents are prohibited from playing instant lottery tickets using any method other than fair chance or any method that is contrary to the principle that every ticket has an equal and random chance of winning.

PART 2806 MULTI-JURISDICTIONAL LOTTERY GAMES

Section

- 2806.1 Mega Millions purpose
- 2806.2 Mega Millions definitions
- 2806.3 Mega Millions ticket sales
- 2806.4 Mega Millions ticket prices
- 2806.5 Mega Millions play characteristics and restrictions
- 2806.6 Mega Millions time, place and manner of conducting drawings
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- 2806.8 Mega Millions ticket responsibility
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- 2806.10 Mega Millions procedures for claiming and payment of prizes
- 2806.11 Mega Millions unclaimed prize money
- 2806.12 Mega Millions governing law
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§ 2806.1 Mega Millions purpose.

(a) The purpose of Mega Millions (hereinafter Mega Millions) is the generation of revenue for education in New York through the operation of a specially-designed multi-state lottery game that will award prizes to ticket holders matching specified combinations of numbers randomly selected in regularly scheduled drawings.

(b) During each Mega Millions drawing, 6 Mega Millions Winning Numbers will be selected from 2 fields of numbers in the following manner: 5 winning numbers from a field of 1 through 52 numbers, and 1 winning number from a field of 1 through 52 numbers.

(c) The objective of Mega Millions drawings shall be to select at random, with the aid of drawing equipment, Mega Millions Winning Numbers, pursuant to the controls and methods established for the game.

§ 2806.2 Mega Millions definitions

(a) The following definitions shall apply to Mega Millions.

(1) Agent - The person who has been licensed and authorized by the New York Lottery to sell lottery tickets pursuant to Part 2801 of these regulations.

(2) Annuity Option. The manner in which the Mega Millions Jackpot Prize may be paid in 26 annual installments.

(3) Authorized claim center. Any place designated by the New York Lottery where a ticket holder or his or her representative may file a claim for a prize in accordance with instructions of the New York Lottery.

(4) Lump Sum Option - The manner in which the Mega Millions Jackpot Prize may be paid in a single payment.

(5) Claimant - Any person or entity submitting a claim form within the required time period to collect a prize for any Mega Millions Ticket. A Claimant may be the person or entity named on a signed Mega Millions Ticket, or the bearer of an unsigned Mega Millions Ticket. No Claimant may assert rights different from the rights acquired by the original Purchaser at the time of purchase.

(6) Director. The chief officer of the New York Lottery or any other persons to whom the Director's authority is lawfully delegated.

(7) Jackpot Prize. For the on-line Mega Millions game, the prize awarded for selecting all the numbers drawn from both fields. If more than one player from all participating lottery states has selected all the numbers drawn, the jackpot prize shall be divided among those players. Jackpot prize may also be referred to from time to time as "Grand Prize". For any other game, the Jackpot Prize will be identified in game rules issued for such game.

(8) Mega Millions Play Area-For the on-line Mega Millions game, the areas on a Mega Millions play slip identified by an alpha character, A through E, containing two separate fields - one field of 56 and a second field of 46 - both containing one or two digit numbers each. This is the area where the player, or computer if the player is using the Quick Pick option, will select five (5) one or two-digit numbers from the first field, and will select one (1) one or two-digit numbers from the second field.

(9) Mega Millions Play Slip - for the Mega Millions game, a computer-readable form, printed and issued by the New York Lottery, used in purchasing a Mega Millions Ticket, having up to five (5) separate play areas. The play slip also provides for multiple drawing wagering up to 26 draws.

(10) Mega Millions Ticket - A game ticket, produced on official paper stock, by an agent in an authorized manner, bearing player or computer selected numbers from the play area on the play slip, game name, drawing dates, amount of wager, jackpot prize payment option, and validation data.

(11) Mega Millions Winning Numbers - For the on-line Mega Millions game, five (5) one or two-digit numbers, from one (1) through fifty-six (56) and one (1) one or two-digit number from one (1) through forty-six (46), randomly selected at each Mega Millions drawing, which shall be used to determine winning Mega Millions plays contained on Mega Millions tickets.

(12) Pari-Mutuel - For the on-line Mega Millions game total amount of prize money allocated to pay prize Claimants, at the designated prize level, divided among the number of winning Mega Millions Tickets.

(13) Party Lottery or Party Lotteries - One or more of the state lotteries established and operated pursuant to the laws of any state lottery which becomes a signatory to the Mega Millions Game agreement.

(14) Prize fund. That portion of Mega Millions gross sales set aside for the payment of prizes.

(15) Purchaser(s). Player(s) of Mega Millions who purchase tickets within New York State in accordance with Mega Millions rules and New York State governing laws and regulations.

(16) Quick-Pick - A player option in which Mega Millions number selections are determined at random by the computer system at the time of purchase.

§ 2806.3 Ticket sales

(a) The sale of Mega Millions Tickets within New York State may be conducted only by an agent.

§ 2806.4 Ticket price

(a) Mega Millions Tickets may be purchased for \$ 1.00 per play at the discretion of the Purchaser, in accordance with the number of game panels and inclusive drawings. The Purchaser receives one play for each \$ 1.00 wagered in Mega Millions. Tickets may contain multiple plays. The Division may authorize the sale of Mega Millions tickets at a different purchase price. Such a change in the purchase price shall be announced publicly by the Division prior to the effective date of such change.

(b) From time to time, the New York Lottery may authorize the sale of Mega Millions tickets at a discount for promotional purposes.

(c) A Mega Millions game feature may be added at the discretion of the Director. A game feature is an alternative or additional method for playing the game within the same basic design.

§ 2806.5 Play characteristics and restrictions

(a) Mega Millions tickets may only be sold to persons 18 years of age or older.

(b) Mega Millions tickets may not be sold to nor prizes claimed by the following persons within New York State:

(1) any officer or employee of the New York Lottery; or

(2) any contractor, subcontractor, or consultant, or officer or employee of a contractor, subcontractor, or consultant, if such person is directly involved in the production of lottery tickets, the operation or observation of lottery games or drawings, or the processing of lottery prize claims or payments; or

(3) any person subject to a contract with the New York Lottery if such contract contains a provision prohibiting such person from purchasing a lottery ticket or receiving a lottery prize; or

(4) any spouse, child, brother, sister or parent residing as a member of the same household in the principal place of abode of any such persons. This section shall not be deemed to prohibit the sale of a lottery ticket or the payment of a lottery prize to an officer or employee of the New York Lottery or to a contractor, subcontractor, or consultant or to an officer or employee of a contractor, subcontractor, or consultant if such sale or prize payment is not for the individual benefit of such person and is made in connection with an official investigation, audit, marketing effort or other activity authorized by the director.

(c) Mega Millions tickets may not be purchased in any other state by any New York Lottery employee or any spouse, child, brother, sister or parent residing as a member of the same household in the principal place of residence of any New York

Lottery employee.

(d) Under no circumstances will a claim be paid for either the Jackpot Prize or the Second Prize without a Mega Millions ticket matching all game play, serial number and other validation data residing in the New York Lottery's on-line gaming system computer and such ticket shall be the only valid proof of the wager placed and the only valid receipt for claiming or redeeming any prize.

(e) Mega Millions tickets may not be canceled.

(f) For the on-line Mega Millions game, purchasers may submit a manually completed Mega Millions Play Slip to an Agent to have issued a Mega Millions Ticket. Mega Millions Play Slips shall be available at no cost to the Purchaser and shall have no pecuniary or prize value, or constitute evidence of purchase or number selections. The use of mechanical, electronic, computer generated or any other non-manual method of marking Play Slips is prohibited.

(g) Purchasers may orally convey their selections to an Agent to have issued a Mega Millions ticket. Such selections shall be manually entered into the computer terminal by the Mega Millions agent.

(h) Purchasers may utilize player express terminals if available for the purchase of Mega Millions tickets, and may make number selections by such methods as may be permitted by the New York Lottery's gaming system. Those methods may include, but are not limited to, inserting a completed Mega Millions play slip into the optical mark reader, manually entering the selections on the touch screen, or selecting a Quick Pick option.

(i) It shall be the sole responsibility of the Purchaser to verify the accuracy and condition of the data printed on the Mega Millions ticket at the time of purchase. Neither the agent nor the New York Lottery will be liable for any errors in the accuracy and condition of the data printed on the ticket occurring for any reason, after the purchaser leaves the agent location.

(j) Mega Millions tickets may be purchased for 1 through 26 consecutive drawings, commencing with the next scheduled drawing after the receipt and processing of the Purchaser's Play Slip.

§ 2806.6 Time, place and manner of conducting drawings

For the on-line Mega Millions game: Mega Millions drawings will be conducted twice weekly approximately 11:00 p.m. Eastern Time in one of the party lottery states. The day, time, frequency and location of the Mega Millions drawings may be changed following public announcement.

§ 2806.7 Prize structure

(a) For the on-line Mega Millions game - Matrix of 5/56 and 1/46 with 50 Percent Anticipated Prize Fund.

Match Field 1	Match Field 2	Odds	Prize Category	Percentage of Prize Fund
5	1	1:175,711,536.00	Grand	63.60 percent
5	0	1:3,904,700.80	Second	12.80 percent
4	1	1:689,064.85	Third	2.90 percent
4	0	1:15,312.55	Fourth	1.96 percent
3	1	1:13,781.30	Fifth	2.18 percent
2	1	1:843.75	Sixth	2.38 percent
3	0	1:306.25	Seventh	4.58 percent
1	1	1:140.63	Eighth	4.26 percent
0	1	1:74.80	Ninth	5.34 percent
Reserve				0 percent
Totals		1:39.89		100 percent

(b) Jackpot prize payments. For the Mega Millions game:

(1) The prize money allocated from the winning pool for the Jackpot Prize, plus any money brought forward from a previous drawing plus any money added from the prize reserve fund or any other available source pursuant to a first prize amount announcement will be divided equally among all Jackpot Prize winners in all participating lottery states. Prior to each drawing, the annuitized Mega Millions jackpot prize amount will be advertised.

(2) If in any Mega Millions drawing there are no Mega Millions panels which qualify for the Jackpot Prize category, the portion of the Prize Fund allocated to such Jackpot Prize category shall remain in the jackpot prize category and be added to the amount allocated for the jackpot prize category in the next consecutive Mega Millions drawing.

(3) If there are multiple winners of the annuitized Mega Millions jackpot prize from among all participating state lotteries, and if the annuitized amount of prize being awarded to each winner equals or exceeds \$ 1 million, then the winner(s) in New York will be paid in accordance with their selection of lump sum or annuity. If there are multiple winners of the annuitized Mega Millions jackpot prize from among all participating state lotteries, and if the annuitized amount of the prize being awarded to each winner is less than \$ 1 million, then the winner(s) in New York will be paid in a lump sum amount.

(4) Purchasers in New York must select either an annuity jackpot prize or lump sum jackpot prize. A jackpot prize shall be paid, at the election of a player made no later than sixty (60) days after the player becomes entitled to the prize, with either an

annuity or lump sum payment. If the payment election is not made by a player within sixty (60) after the player becomes entitled to the prize, then the prize shall be paid as an annuity prize. An election to take a lump sum payment may be made at the time of the prize claim or within sixty (60) days after the player becomes entitled to the prize. An election made after the winner becomes entitled to the prize is final and cannot be revoked. Withdrawn or otherwise changed without the approval of the Division.

(i) Annuity option jackpot prizes shall be paid in 26 consecutive annual installments. The initial payment shall be paid upon completion of internal validation procedures. The subsequent 25 payments shall be paid annually to coincide with the month of the federal auction date at which the bonds were purchased to fund the Annuity. All such payments shall be made within seven days of the anniversary of the annual auction date.

(ii) Lump sum option jackpot prizes shall be paid in a single payment upon completion of internal validation procedures. The lump sum option amount offered shall be the amount determined by multiplying the annuitized prize amount by a discount value set by Mega Millions Finance Committee prior to each drawing (the "lump sum equivalent jackpot prize"), divided by the number of total jackpot prize winners for the Mega Millions game.

(c) Second through ninth level prizes.

(1) Mega Millions Panels matching five (5) of the five (5) Mega Millions Winning Numbers drawn for Field 1, but not matching the Mega Millions Winning Number drawn for Field 2 shall be entitled to receive a Second Prize of \$ 250,000.

(2) Mega Millions panels matching four (4) of the five (5) Mega Millions Winning Numbers drawn for Field 1 and the Mega Millions Winning Number drawn for Field 2 shall be entitled to receive a Third prize of \$ 10,000.

(3) Mega Millions panels matching four (4) of the five (5) Mega Millions Winning Numbers drawn for Field 1 but not matching the Mega Millions Winning Number drawn for Field 2 shall be entitled to receive a fourth prize of \$150.

(4) Mega Millions panels matching three (3) of the five (5) Mega Millions Winning Numbers drawn for Field 1 and the Mega Millions winning Number drawn for Field 2 shall be entitled to receive a fifth prize of \$150.

(5) Mega Millions panels matching two of the five Mega Millions Winning Numbers drawn for Field 1 and the Mega Millions winning Number drawn for Field 2 shall be entitled to receive a sixth prize of \$10.

(6) Mega Millions Panels matching three (3) of the five (5) Mega Millions winning numbers drawn for Field 1 but not matching the Mega Millions winning number drawn for Field 2 shall be entitled to receive a Seventh prize of \$7.

(7) Mega Millions panels matching one of the five Mega Millions winning numbers drawn for field 1 and the Mega Millions winning number drawn for field 2 shall be entitled to receive an eighth prize of \$3.

(8) Mega Millions Panels matching no numbers of the five Mega Millions winning numbers drawn for field 1 but matching the Mega Millions winning number drawn for field 2 shall be entitled to receive a ninth prize of \$2.

(9) Each Mega Millions second through ninth prize shall be paid in one payment.

(10) The Division, in consultation with other state lotteries selling Mega Millions tickets, may decide that it is necessary to pay a set prize as a pari-mutuel prize.

(d) In a single on-line drawing, a Claimant may win in only one prize category per single Mega Millions panel in connection with Mega Millions winning numbers, and shall be entitled only to the highest prize.

(e) For purpose of prize calculation with respect to any Mega Millions pari-mutuel prize, the calculation shall be rounded down so that prizes shall be paid in multiples of one dollar.

(f) With respect to any Mega Millions annuitized jackpot prize, the prize amount shall be rounded down to the next highest affordable multiple of one million dollars, based upon market rates at the time of the purchase.

(g) The number of prize categories and the allocation of the prize fund among the prize categories may be changed at the discretion of the director from time to time for promotional purposes. Such change shall be announced by public notice.

(h) A subscription sales program may be offered, at the discretion of the Director.

§ 2806.8 Ticket responsibility

(a) A winning Mega Millions Ticket is deemed to be owned by the person or entity named on the ticket or, in the case of a ticket not completed with name, by the claimant.

(b) Neither the New York Lottery nor its agents shall be responsible for lost or stolen Mega Millions tickets.

(c) The Purchaser of a Mega Millions ticket has the sole responsibility for verifying the accuracy and condition of the data printed on the ticket at the time of purchase.

(d) The New York Lottery shall not be responsible to the claimant for Mega Millions tickets redeemed in error by a Mega Millions agent or retailer.

(e) Winners are determined by the numbers drawn and not the numbers reported. The New York Lottery shall not be responsible for Mega Millions winning numbers reported in error.

§ 2806.9 Ticket validation requirements

(a) In order to be deemed a valid, winning Mega Millions ticket, all of the following

conditions must be met:

- (1) The validation data must be present in its entirety and must correspond, using the computer validation file, to the number selections printed on the ticket for the drawing date(s) printed on the ticket;
- (2) The ticket must be intact;
- (3) The ticket must not be mutilated, altered, reconstituted, or tampered with in any manner;
- (4) The ticket must not be counterfeit or an exact duplicate of another winning ticket;
- (5) The ticket must have been issued by an authorized Mega Millions agent on official paper stock of the New York Lottery;
- (6) The New York Lottery must not have actual knowledge that the ticket has been stolen;
- (7) The ticket must be submitted for payment in accordance with the New York Lottery's Procedures for Claiming and Payment of Prizes;
- (8) The ticket data must have been recorded on the New York Lottery's central computer system prior to the drawing and the ticket data must match this computer record in every respect. In the event of a contradiction between information as printed on the ticket and as accepted by the New York Lottery's central computer system, the wager accepted by the New York Lottery's central computer system shall be the valid wager;
- (9) The player or computer number selections, validation data and the drawing date(s) of an apparent winning ticket must appear on the official file of winning tickets, and a ticket with that exact data must not have been previously paid;
- (10) The ticket must not be misregistered, defectively printed, or produced in error to an extent that it cannot be processed by the New York Lottery;
- (11) The ticket must pass validation tests using a minimum of three of the five validation methods as defined in the Mega Millions finance and operations procedures. In addition, the ticket must pass all of the New York Lottery's other confidential security;
- (12) In submitting a Mega Millions ticket for validation, the Claimant agrees to abide by applicable laws, all rules and regulations, instructions, conditions and final decisions of the Director of the New York Lottery;
- (13) There must not be any other breach of the Mega Millions game rules or regulations in relation to the ticket, which, in the discretion of the director justifies invalidation;
- (14) The ticket must be submitted to the New York Lottery and to no other lottery participating in any Mega Millions lottery game; and

(15) No Mega Millions ticket purchased outside the State of New York may be presented to either the New York Lottery or an agent for payment within New York.

(b) A Mega Millions ticket submitted for validation which fails any of the preceding validation conditions shall be considered void, subject to the following determinations:

(1) The Director may, at his/her option, replace an invalid ticket with a Mega Millions ticket of equivalent sales price;

(2) In the event a defective ticket is purchased or in the event the Director determines to adjust an error, the sole and exclusive remedy shall be the replacement of such defective or erroneous ticket(s) with a Mega Millions ticket of equivalent sales price;

(3) In the event a Mega Millions ticket is not paid by the New York Lottery and a dispute occurs as to whether the ticket is a winning ticket, the New York Lottery may, at its option, replace the ticket as provided in paragraph (a) of this subsection. This shall be the sole and exclusive remedy of the claimant.

§ 2806.10 Procedures for claiming and payment of prizes

(a) For the Mega Millions tickets purchased in New York, prizes shall be redeemed or claimed only in New York through Agents or Authorized Claim Centers, effective upon determination of prize payouts, for a period of one year from the drawing date.

(b) Claimants of a winning Mega Millions ticket must comply with the prize claim requirements of the New York Lottery.

(c) In the event that a single Mega Millions ticket contains two or more winning game panels, the cumulative prize amount shall be claimed or redeemed in accordance with the specified prize payment limits for the New York Lottery.

(d) Federal, state and local taxes shall be withheld from Mega Millions prizes in such amounts as may be required by law.

(e) Mega Millions prizes shall not be paid by the New York Lottery to any persons prohibited from playing Mega Millions within New York State.

(f) There shall be no assignment of Mega Millions prizes except as set forth in Part 2803 of these regulations.

(g) Each prize winner shall be subject to a publicity release as set forth in Part 2803 of these regulations.

(h) Child support arrears and public assistance benefits shall be withheld from Mega Millions prizes in such amounts as may be required by law.

§ 2806.11 Unclaimed prize money

Any prizes not claimed during the one year claim period after the date of each Mega Millions drawing will be considered forfeited.

§ 2806.12 Governing law

(a) In purchasing a ticket issued for Mega Millions within New York State, the Purchaser agrees to comply with and be bound by all applicable statutes, administrative rules and regulations, and procedures of New York State, and by directives and determinations of the Director of the New York Lottery. The Purchaser agrees, as its sole and exclusive remedy, that claims arising out of a ticket purchased in New York State from an agent can be pursued only against the New York Lottery and no other lottery. Litigation, if any, arising from the purchase of a Mega Millions ticket in New York State from an agent shall only be maintained against the New York Lottery within the State of New York.

(b) In the event of a conflict between the Mega Millions official game rules and the statutes, rules or regulations of the New York Lottery and the State of New York, such statutes, rules and regulations shall control.

(c) All decisions by the director, including the declaration of prizes and the payment thereof and the interpretation of Mega Millions rules, shall be final and binding on all Purchasers and on every person making a claim in respect thereof.

§ 2806.13 Powerball

a. Purpose.

- (1) The purpose of the Powerball Game (hereinafter Powerball) is the generation of revenue for education in New York State through the operation of a specially-designed multi-state lottery game that will award prizes to holders of tickets matching specified combinations of numbers randomly selected in regularly scheduled drawings.
- (2) During each Powerball drawing, six (6) Powerball winning numbers will be selected from two (2) fields of numbers in the following manner: five (5) winning numbers from a field of one (1) through fifty-nine (59), and one (1) winning number from a field of one (1) through thirty-five (35).

b. Definitions.

The following definitions apply to Powerball:

- (1) Intentionally Omitted.
- (2) "MUSL" means the Multi-State Lottery Association that administers the Powerball game.
- (3) "Quick pick" means a player option in which Powerball number selections are determined at random by the computer system at the time of purchase.

- (4) "Powerball Play Area" means the area of the play slip, also known as a "panel" which contains two sets of numbered spaces to be marked by a player, the first set containing fifty-nine (59) spaces, numbered one (1) through fifty-nine (59) and the second set containing thirty-five (35) spaces, numbered one (1) through thirty-five (35).
- (5) "Powerball Play Slip" or "bet slip" means a card used in marking a player's game plays and containing one or more play areas.
- (6) "Powerball Winning numbers" means the six (6) numbers, the first five (5) from a field of fifty-nine (59) numbers and the last one (1) from a field of thirty-five (35) numbers, randomly selected at each drawing, which shall be used to determine winning plays shown on a game ticket.
- (7) "Fixed Prize" means all other prizes except the Jackpot Prize that are advertised to be paid by a single payment and, except in instances specified in this section, will be equal to the prize amount established for the prize level.

c. Game Description.

- (1) Powerball is a five (5) out of fifty-nine (59) plus one (1) out of thirty-five (35) computerized lottery game which pays the Jackpot Prize, at the election of the player made in accordance with this section or by a default election made in accordance with this section, either on an annuitized pari-mutuel basis or as a lump sum payment of the total cash held for this prize pool on a pari-mutuel basis. Except as provided in this section, all other prizes are paid on a fixed lump sum basis. To play Powerball, a player may select five (5) different numbers, from one (1) through fifty-nine (59) and one (1) additional number from one (1) through thirty-five (35). The additional number may be the same as one of the first five (5) numbers selected by a player. A player may select a set of five (5) numbers and one additional number by communicating the six (6) numbers to a Lottery Sales Agent, or by marking six (6) numbered spaces in any one panel on a Play Slip and submitting the Play Slip to an Agent or by requesting Quick Pick from an Agent. An Agent will then issue a ticket containing the selected set or sets of numbers, each of which constitutes a game play.
- (2) A Powerball ticket may not be canceled.
- (3) It shall be the sole responsibility of a player to verify the accuracy and readability of the information displayed on a Powerball ticket at the time of purchase. Neither an Agent nor the Division shall be liable for any errors in the accuracy and readability of a ticket occurring for any reason, after the purchaser leaves an Agent location.
- (4) A play may only be entered manually using the lottery terminal keypad or touch screen or by means of a play slip provided by the Division and hand-marked by the player or by other means approved by the Division. An Agent shall not permit the use of facsimiles of play slips, copies of play slips, or other materials that are inserted into the terminal's Play Slip reader that are not printed or approved by the

Division. An Agent shall not permit any device to be connected to a lottery terminal to enter plays, except as approved by the Division.

- (5) A Powerball subscription sales program may be offered at the discretion of the Director.
- (6) A Powerball game feature may be added at the discretion of the Director. A game feature is an alternative or additional method for playing the game within the same basic game design.

d. Ticket Sales.

Powerball tickets shall be sold only through Agents or other means authorized by the Division.

e. Ticket Prices.

- (1) A Powerball ticket may be purchased for \$2.00 per play in accordance with the number of game panels and inclusive drawings. The purchaser receives one play for each \$2.00 wagered in Powerball. Tickets may contain multiple plays. The Division may authorize the sale of Powerball tickets at a different purchase price. Such a change in the purchase price shall be announced publicly by the Division prior to the effective date of such change.
- (2) From time to time, the Division may authorize the sale of Powerball tickets at a discount for promotional purposes.

f. Play Characteristics and Restrictions.

- (1) A Powerball ticket may only be sold to a person 18 years of age or older.
- (2) No Powerball ticket shall be sold to and no prize shall be paid to the following persons:
 - (A) any officer or employee of the Division; or a MUSL employee, officer, or director,
 - (B) any contractor, subcontractor, or consultant, or officer or employee of a contractor, subcontractor, or consultant, if such person is directly involved in the production of lottery tickets, the operation or observation of lottery games or drawings, or the processing of lottery prize claims or payments; or a contractor or consultant under agreement with MUSL to review MUSL audit and security procedures,
 - (C) any person subject to a contract with the Division if such contract contains a provision prohibiting such person from purchasing a lottery ticket or receiving a lottery prize; or an employee of an independent accounting firm under contract with MUSL to observe drawings or site operations and actually assigned to the MUSL account and all partners, shareholders, or

owners in the local office of the firm to the headquarters of MUSL, or

(D) any spouse, child, brother, sister or parent residing as a member of the same household in the principal place of abode of any such person. This paragraph shall not be deemed to prohibit the sale of a lottery ticket or the payment of a lottery prize to an officer or employee of the Division or to a contractor, subcontractor, or consultant or to an officer or employee of a contractor, subcontractor, or consultant if such sale or prize payment is not for the individual benefit of such person and is made in connection with an official investigation, audit, marketing effort or other activity authorized by the Director.

(3) A Powerball ticket may not be purchased in any other state by any Division employee or any spouse, child, brother, sister or parent residing as a member of the same household in the principal place of abode of any Division employee.

(4) A Powerball ticket matching all game play, serial number and other validation data recorded in the Division's computerized gaming system computer shall be the only valid proof of the wager placed and the only valid receipt for claiming or redeeming any prize.

(5) A player may submit a completed Powerball Play Slip to an Agent to have a Powerball ticket issued. Powerball Play Slips shall be available at no cost to a player and shall have no pecuniary or prize value, or constitute evidence of purchase or number selections.

(6) A player may orally convey his or her selections to an Agent to have a Powerball ticket issued. Such selections shall be entered into the computer terminal by an Agent.

(7) A player may use a self-service terminal if available or any other means authorized by the Division for the purchase of a Powerball ticket and may make number selections by such methods as may be permitted by the Division. Those methods may include, but are not limited to, inserting a completed Powerball Play Slip into a reader, manually entering the selections on a touch screen, or selecting a Quick Pick option.

(8) A Powerball ticket may be purchased for a specified number of future drawings.

g. Time, place and manner of conducting drawings.

Powerball drawings will be conducted twice weekly at 10:59 p.m. Eastern Time at a location authorized by MUSL. The day, time, frequency and location of the Powerball drawings may be changed following a public announcement.

h. Prize Pool, Prize Structure and Probability of Winning.

- (1) Prize Pool. The prize pool for all prize categories shall consist of fifty percent of each drawing period's sales after the prize reserve accounts are funded to set amounts. If the Powerball game is no longer offered in New York State, any amount remaining in the prize pool at the end of the game shall be carried forward to a replacement game or used in a manner as permitted by New York State law.
- (2) Prize Reserve Accounts. The prize reserve account may be adjusted as needed to maintain an approved maximum balance and shares of the party lotteries as specified by MUSL. If the Powerball game is no longer offered in New York State, any amount remaining in a prize reserve account at the end of the game shall be carried forward to a replacement prize reserve account or used in a manner as permitted by New York State law.
- (3) Expected Prize Payout Percentages. The Jackpot Prize shall be determined on a pari-mutuel basis. Except as provided in this section, all other prizes shall be paid as fixed lump sum prizes with the following expected prize payout percentages:

Number of Matches Per Play	Prize Payment	Prize Pool Percentage Allocated to Prize
All five (5) of first set plus one (1) of second set.	Jackpot Prize	63.9511%*
All five (5) of first set and none of second set.	\$1,000,000	19.4038%
Any four (4) of first set plus one (1) of second set.	\$10,000	1.5409%
Any four (4) of first set and none of second set.	\$100	0.5239%
Any three (3) of first set plus one (1) of second set.	\$100	0.8167%
Any three (3) of first set and none of second set.	\$7	1.9437%
Any two (2) of first set plus one (1) of second set.	\$7	0.9909%
Any one (1) of first set plus one (1) of second set.	\$4	3.6097%
None of first set plus one (1) of second set.	\$4	7.2194%

- (4) The prize money allocated to the Jackpot Prize category shall be divided equally by the number of game panels winning the Jackpot Prize.
- (5) The prize pool percentage allocated to the fixed prizes shall be carried forward to subsequent drawings if all or a portion of it is not needed to pay the fixed prizes awarded in the current drawing. The Division, in consultation with other state lotteries selling Powerball tickets, may decide that it is necessary to pay a fixed prize as a pari-mutuel prize.
- (6) Probability of Winning. The following table sets forth the probability of winning and the probable distribution of winners in and among each prize category based upon the total number of possible combinations in Powerball.

Number of Matches Per Ticket	Probability Distribution	Winners Probability	Probable/Set Prize Amount
All five (5) of first set plus one (1) of second set	1	1: 175,223,510.0000	Jackpot Prize
All five (5) of first set and none of second set	38	1: 5,153,632.6471	\$1,000,000
Any four (4) of first set plus one (1) of second set	270	1: 648,975.9630	\$10,000
Any four (4) of first set and none of second set	9,180	1: 19,087.5283	\$100
Any three (3) of first set plus one (1) of second set	14,310	1: 12,244.8295	\$100
Any three (3) of first set and none of second set	486,540	1: 360.1420	\$7
Any two (2) of first set plus one (1) of second set	248,040	1: 706.4325	\$7
Any one (1) of first set plus one (1) of second set	1,581,255	1: 110.8129	\$4
None of first set plus one (1) of second set	3,162,510	1: 55.4065	\$3
Overall	5,502,140	1: 31.8464	

i. Prize Payment.

- (1) **Jackpot Prizes.** Jackpot prizes shall be paid, at the election of a player made no later than sixty (60) days after the player becomes entitled to the prize, with either an annuity or lump sum payment. If the payment election is not made by a player within sixty (60) days after the player becomes entitled to the prize, then the prize shall be paid as an annuity prize. An election to take a lump sum payment may be made at the time of the prize claim or within sixty (60) days after the player becomes entitled to the prize. An election made after the winner becomes entitled to the prize is final and cannot be revoked, withdrawn or otherwise changed without the approval of the Division. Shares of the Jackpot Prize shall be determined by dividing the cash available in the Jackpot Prize pool equally among all winners of the Jackpot Prize in all participating lottery states. Winner(s) who elect a lump sum payment shall be paid their share(s) in a single lump sum payment upon successful completion of validation procedures. Neither MUSL nor the participating lotteries shall be responsible or liable for changes in the advertised or estimated annuity prize amount and the actual amount determined after the prize payment method is actually known to MUSL. In certain instances announced by MUSL, the Jackpot Prize shall be a guaranteed amount and shall be determined pursuant to paragraph (5) of this subdivision. All annuitized prizes shall be paid annually in thirty (30) payments with the initial payment being made in a lump sum, to be followed by twenty-nine (29) payments, upon

successful completion of validation procedures. All annuitized prizes shall be paid annually in thirty (30) graduated payments (increasing each year) by a rate as determined by MUSL. Prize payments may be rounded down to the nearest one thousand dollars (\$1,000).

- (2) Low-Tier Prize Payments. All low-tier prizes shall be paid in one payment.
- (3) Prizes Rounded. Annuitized payments of the Jackpot Prize or a share of the Jackpot Prize may be rounded to facilitate the purchase of an appropriate funding mechanism. Amounts remaining after rounding on an annuitized Jackpot Prize shall be added to the initial payment to the winner or winners. Prizes other than the Jackpot Prize, which, under these rules, may become single-payment, pari-mutuel prizes, may be rounded down so that prizes can be paid in multiples of whole dollars. Amounts remaining after rounding shall be carried forward to the prize pool for the next drawing.
- (4) Rollover. If the Jackpot Prize is not won in a drawing, the prize money allocated for the Jackpot Prize shall roll over and be added to the Jackpot Prize pool for the following drawing.
- (5) Funding of Guaranteed Prizes. Guaranteed minimum Jackpot Prize amounts, minimum increases in the Jackpot Prize amount between drawings or changes in the allocation of prize money may be offered where it is determined that it would be in the best interest of the game. Minimum guaranteed prizes or increases may be waived if the alternate funding mechanism specified in subdivision (h) of this section is used.
- (6) Limited to Highest Prize Won. The holder of a winning ticket may win only one prize per panel in connection with the winning numbers drawn, and shall be entitled only to the prize won by those numbers in the highest matching prize category.

j. Ticket Responsibility.

- (1) A winning Powerball ticket is deemed to be owned by the person or entity named in the prize claim or, by the bearer of the ticket.
- (2) Neither the Division, MUSL nor their Agents shall be responsible for lost or stolen Powerball tickets.
- (3) A player of the Powerball game has the sole responsibility for verifying the accuracy and readability of the information displayed on the ticket at the time of purchase.
- (4) The Division and/or MUSL shall not be responsible to the claimant for a Powerball ticket redeemed in error by an Agent or retailer.

- (5) Winners are determined by the numbers drawn and not the numbers reported. The Division and/or MUSL shall not be responsible for Powerball winning numbers reported in error.

k. Ticket Validation Requirements.

- (1) In order to be deemed a valid, winning Powerball ticket, all of the following conditions must be met:
 - (A) The validation data must be present in its entirety and must correspond, using the computer validation file, to the number selections printed on the ticket for the drawing date(s) printed on the ticket;
 - (B) The ticket must be intact;
 - (C) The ticket must not be mutilated, altered, reconstituted, or tampered with in any manner;
 - (D) The ticket must not be counterfeit or an exact duplicate of another winning ticket;
 - (E) The ticket must have been issued by the Division or an authorized Agent of the Division;
 - (F) The Division must not have actual knowledge that the ticket has been stolen;
 - (G) The ticket must be submitted for payment in accordance with the Division's procedures for claiming and payment of prizes;
 - (H) The ticket data must have been recorded on the Division's central computer system prior to the drawing and the ticket data must match that computer record in every respect. In the event of a contradiction between information as printed on the ticket and as accepted by the Division's central computer system, the wager accepted by the Division's central computer system shall be the valid wager;
 - (I) The player or computer number selections, validation data and the drawing date(s) of an apparent winning ticket must appear on the official file of winning tickets, and a ticket with that exact data must not have been previously paid;
 - (J) The ticket must not be mis-registered, defectively printed, or produced in error to an extent that it cannot be processed by the Division;
 - (K) The ticket must pass all of the Division's security protocols and operation procedures;

- (L) In submitting a Powerball ticket for validation, the claimant agrees to abide by applicable laws, all rules and regulations, instructions, conditions and final decisions of the Director of the Division;
 - (M) There must not be any other breach of the Powerball game rules or regulations in relation to the ticket, which, in the discretion of the Director justifies invalidation;
 - (N) The ticket must be submitted to the Division and to no other lottery participating in any Powerball lottery game; and
 - (O) No Powerball ticket purchased outside the State of New York may be presented to either the Division or an agent for payment within New York.
- (2) A ticket shall be the only proof of a game play or plays and the submission of a winning ticket to the Division shall be the sole method of claiming a prize or prizes.
 - (3) A Powerball ticket submitted for validation which fails any of the preceding validation requirements shall be considered void, subject to the following determinations:
 - (A) The Director may, at his or her option, replace an invalid ticket with a Powerball ticket of equivalent sales price or a refund of purchase price;
 - (B) In the event a defective ticket is purchased or in the event the Director determines to adjust an error, the sole and exclusive remedy shall be the replacement of such defective or erroneous ticket(s) with a Powerball ticket of equivalent sales price or a refund of purchase price;
 - (C) In the event a Powerball ticket is not paid by the Division and a dispute occurs as to whether the ticket is a winning ticket, the Division may, at its option, replace the ticket as provided in subparagraph (A) of this paragraph. This shall be the sole and exclusive remedy of the claimant or a refund of purchase price.

I. Procedures for claiming and Payment of Prizes

- (1) For a Powerball ticket purchased in New York State, a prize shall be redeemed or claimed only in New York State through Agents or authorized Customer Service Centers, effective upon determination of prize payouts, for a period of one year from the drawing date.
- (2) A holder of a winning Powerball prize must comply with the prize claim requirements of the Division.
- (3) In the event that a single Powerball ticket contains two or more winning game panels, the cumulative prize amount shall be claimed or

redeemed in accordance with the specified prize payment limits for the Division.

- (4) Federal, state and local taxes shall be withheld from Powerball prizes in such amounts as may be required by law.
 - (5) Powerball prize shall not be paid by the Division to any persons prohibited from playing Powerball within New York State.
 - (6) There shall be no assignment of Powerball prizes except as specified in Part 2803 of these regulations.
 - (7) Each prize winner shall be subject to a publicity release as specified in Part 2803 of these regulations and participation in a news conference or event.
 - (8) Child support arrears, public assistance repayments and past due State tax liabilities shall be withheld from Powerball prizes in such amounts as may be required by law.
- m. Unclaimed prize money. Any prizes not claimed during the one year claim period after the date of each Powerball drawing will be considered forfeited.
- n. Governing Law.
- (1) In purchasing a Powerball ticket in New York State, a purchaser agrees to comply with and be bound by all applicable statutes, administrative rules and regulations, and procedures of New York State, and by directives and determinations of the Director of the Division. A purchaser agrees, as his or her sole and exclusive remedy, that claims arising out of a ticket purchased in New York State can be pursued only against the Division and no other lottery. Litigation, if any, arising from the purchase of a Powerball ticket in New York State may only be maintained against the Division within the State of New York.
 - (2) In the event of a conflict between the Powerball group game rules and the statutes, rules or regulations of the Division or the State of New York, the statutes, rules and regulations of the Division or the State of New York shall control.
 - (3) All decisions by the Director, including the declaration of prizes and the payment thereof and the interpretation of Powerball rules, shall be final and binding on all players and on every person making a claim in respect thereof.

**PART 2817
LOTTO**

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- 2817.4 Ticket sales
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- 2817.18 Miscellaneous provisions applicable to variations of the LOTTO game

§ 2817.1 Definitions.

The following definitions apply to this Part.

(a) LOTTO means a lottery game that has a designated field of consecutive whole numbers beginning with one (1) and ending with fifty-nine (59) from which a player may select up to six (6) numbers.

(b) Game is a generic term that refers to a specific field of numbers from which a player may select a specific subset of numbers.

(c) Play card means a card that contains a number of game panels of defined spaces used by a player to select the games the player desires to play, the number of game panels to be played and the specific subset of numbers for each game selected. The play card is the customary method of presenting a player's selections to a licensed lottery sales agent. However, the player's number selections may be manually entered into the computer terminal by the terminal operator.

(d) Manual entry means the capability of the computer terminal operator to enter a player's selections into the computer terminal in response to instruction from a player, or if a play card is incorrectly marked.

(e) Game Character means a number, symbol or other identifier used in any lottery game.

(f) Random selection option (commonly referred to as "Quick Pick," "Easy Pick," or a similar term) means the option given to players to have the game character(s) to be played randomly selected by computer. The random selection option is initiated by the terminal operator and may be used to select all the game character(s) required for the game or to complete a bet in which fewer than the full complement of game character(s) have been chosen. When the random selection option is used, the bet will be entered by computer in the next scheduled drawing and the numbers to be played will be randomly selected by computer. If a player using the random selection option specifies his or her choice of draw date(s), then only the remaining bet data variables will be selected by computer.

(g) Game panel means the area of the LOTTO play card that contains a number of defined spaces from which a player may select a subset of numbers to be played for a particular drawing. Selections made by the player in the game panel are used to produce an individual wager on the bet ticket.

(h) Bet ticket means the ticket generated by the computer terminal based on input received from the player's play card, random selected option or manual entry. The bet ticket is the only valid receipt for a bet placed. Players should, while still at the point of purchase, verify the game and number selections on the bet ticket.

(i) Computer terminal means the device at the lottery sales agent location or site licensed by the division for purchasing lottery game tickets and performing other lottery transactions.

(j) Draw date means the date designated by the director on which the winning numbers are drawn for each game.

(k) Drawing means the formal process of randomly selecting winning numbers that determines the number of winners for each prize level for a game.

(l) Gross sales means the dollar value of lottery tickets produced for a game draw date.

(m) Prize pool or winning pool means a percentage of the gross sales, as may be determined by the division, for a particular LOTTO game which is allocated for the purpose of paying prizes for that drawing.

§ 2817.2 Payment of prizes.

(a) Prizes for the LOTTO game shall be calculated as follows:

(1) The prize money allocated from the prize pool to the first prize category, plus any money brought forward from a previous drawing and any money added from the LOTTO prize fund reserve or any other available source pursuant to a guaranteed first prize amount announcement, will be divided equally by the number of game panels qualifying for a first prize.

(2) The prize money allocated from the prize pool to the second prize category, plus any money brought forward from a previous draw, will be divided equally by the number of game panels qualifying for a second prize, less any adjustment required by paragraph 2817.2(a)(5).

(3) The prize money allocated from the prize pool to the third prize category will be divided equally by the number of game panels qualifying for a third prize, less any adjustment required by paragraph 2817.2(a)(5).

(4) The prize money allocated from the prize pool to the fourth prize category will be divided equally by the number of game panels qualifying for a fourth prize, less any adjustment required by paragraph 2817.2(a)(5).

(5) A prize in a minimum amount of \$ 1.00 shall be awarded to the fifth prize

category. If there are insufficient prize monies to award a minimum of \$ 1.00 to all fifth prize winners, then the second, third, and fourth prize allocations shall contribute equally to provide sufficient monies to pay a minimum \$ 1.00 fifth prize.

(b) Each first prize payment shall be subject to the following provisions of this subdivision.

(1) If, pursuant to paragraph (a) (1) of this section, the calculated share for each game panel qualifying for a first prize in a particular LOTTO drawing would provide annual payments of \$10,000 or more, a winner shall receive an initial payment in an amount as similar as possible to the first annuity payment. After providing for such a first payment, the division, as authorized by the comptroller, shall invest the remaining first prize money in securities authorized by the State Finance Law for the investment of state funds at current rates payable over a period of years. From the returns of principal and earnings on such investment, the division shall pay annual prize installments to each first prize winner. Such annual prize installments shall be payable for a term of years to be determined by the division. The number of years in the term payment schedule may be changed by the division from time to time. Any such change will be publicly announced by the division. Such announcement may be made in a news release, an advertisement, on the division's website, or in such other form as the director, in his or her discretion, may prescribe to maximize public awareness. LOTTO players may elect whether a first prize shall be payable in installments over a term of years in accordance with the foregoing provisions of this paragraph or, alternatively, whether a first prize shall be payable in a lump sum. If a prize is awarded in a lump sum as a result of a player having elected that option, the amount of the lump sum payment shall be equal to the first prize discounted to present value based upon market rates on the business day following the drawing, divided by the number of game panels qualifying for a first prize. A jackpot prize shall be paid, at the election of a player made no later than sixty (60) days after the player becomes entitled to the prize, with either an annuity or lump sum

payment. If the payment election is not made by a player within sixty (60) days after the player becomes entitled to the prize, then the prize shall be paid as an annuity prize. An election to take a lump sum payment may be made at the time of the prize claim or within sixty (60) days after the winner becomes entitled to the prize. An election made after the winner becomes entitled to the prize is final and cannot be revoked, withdrawn or otherwise changed without the approval of the Division.

(2) If, pursuant to paragraph (a) (1) of this section, the calculated share for each game panel qualifying for a first prize in a particular LOTTO drawing would provide annual payments of less than \$10,000, a winner shall receive the entire prize in a single payment. Such payment shall be equal to the first prize discounted to present value based upon market rates on the business day following the drawing, divided by the number of game panels qualifying for a first prize.

(c)

(1) If in any LOTTO drawing, there is no game panel eligible for a first prize, the amount allocated from the prize pool to the first prize category, plus any amount brought forward from a previous drawing, shall be added to the first prize category for the next drawing.

(2) If the division has announced a guaranteed first prize amount for any LOTTO drawing, and if the amount allocated from the winning pool to the first prize category, plus any amount brought forward from a previous drawing, is insufficient to pay the guaranteed first prize, then the amount necessary to fulfill the guarantee shall be added from the LOTTO prize fund reserve or any other available source to the first prize category. If, however, there is no game panel qualifying for the first prize category in such drawing, no amount from the LOTTO prize fund reserve shall be brought forward to the first prize category for the next drawing. If the division has announced a guaranteed first prize amount

for any LOTTO drawing, and if the amount allocated from the winning pool to the first prize category, plus any amount brought forward from a previous drawing, exceeds the amount necessary to pay the guaranteed first prize, then the excess may be allocated to the LOTTO prize fund reserve established pursuant to Section 2817.7(c) of this Part.

(3) If in any LOTTO drawing, there is no game panel qualifying for the second prize category, the amount allocated from the winning pool to the second prize category, plus any amount brought forward from a previous drawing, shall be added to the second prize category for the next drawing.

(d) All LOTTO prizes must be claimed within one year of the draw date. Within a time period specified by the division following the draw date, a claimant may present a valid winning LOTTO ticket valued at six hundred (600) dollars or less for payment at a licensed retailer; thereafter, the winning ticket may only be claimed at a customer service center approved by the division or by mailing the ticket to the division. LOTTO tickets may be purchased at any location equipped with a lottery computer terminal.

(e) First prize winners shall receive payment not earlier than the 14th day after the relevant draw date.

(f) For the purpose of calculating any prize to be paid, the calculation shall be rounded down so the prize can be paid in multiples of one dollar.

(g) The holder of a winning ticket may win only one prize per game panel in connection with the winning numbers drawn for a particular LOTTO game, but shall be entitled to the highest prize won by those numbers.

§ 2817.3 Disputes.

In the event a dispute occurs between the division and/or the contractors and the player as to whether a ticket is a winning ticket, and if the ticket prize is not paid, the director may,

if he or she considers there is no doubt, refund the entry cost of the panels played by the player on that ticket. This shall be the sole and exclusive remedy of the player of the ticket.

§ 2817.4 Ticket sales.

(a) No person shall sell a LOTTO ticket at a price greater than that fixed by this Part.

(b) The price for each LOTTO wager is one dollar (\$1.00), which entitles the player to two (2) game panels.

§ 2817.5 Prize funds.

(a) Forty (40) percent of gross sales for each LOTTO game draw date shall be paid into the New York Lottery prize account for allocation of prize winnings.

(b) Not less than thirty-eight (38) percent of gross sales for a particular LOTTO game draw shall be the amount allocated to the prize pool for that particular game, and not less than such amount shall form the basis upon which the payment of prizes for the particular game shall be computed; provided, however, that a lesser amount may be allocated to the prize pool if there is an excess of prize funds beyond the amount needed to pay a guaranteed first prize amount as provided in Section 2817.2(c)(2) of this Part.

(c) The director may allocate not more than two (2) percent of gross sales in any LOTTO game draw to prize pools for any other LOTTO game draw dates; provided, however, that a greater amount may be allocated to other LOTTO prize pools if there is an excess of prize funds beyond the amount needed to pay a guaranteed first prize amount as provided in Section 2817.2(c)(2) of this Part. The amount so allocated shall be referred to as the LOTTO prize fund reserve. At the director's discretion, the LOTTO prize fund reserve may be used to fund promotions and maintain minimum prize levels.

(d) In the event of termination of the LOTTO game for whatever reason, any prize monies remaining undistributed in the New York State Lottery prize account will be

disbursed for the sole benefit of winners of other LOTTO or Lottery games at the total discretion of the director.

§ 2817.6 Miscellaneous.

(a) All number selections or other information appearing on any LOTTO bet ticket shall be deemed to be made or given exclusively by the player. Where one person submits a ticket as agent or nominee for another person or persons, the division shall not be deemed to have any knowledge of such transaction, and all dealings of the division will be conducted solely with the bearer of the ticket.

(b) No claimant will be considered eligible to receive a prize without presentation of a valid winning bet ticket.

(c) The division reserves the right to change the prize structures, frequency of draws, draw dates, or the games themselves, and any such changes shall be publicly announced in advance by the division. Any public announcement provided for in this Part shall be made in a news release, an advertisement, on the division's website, or in such other form as the director, in his or her discretion, may prescribe to maximize public awareness.

(d) If for any reason, an on-line bet ticket is not entirely legible or is misprinted or altered in any way, then the on-line computer record created at the time of sale will be the sole method of determining whether such ticket is a valid winning ticket and whether a first prize shall be payable in installments or as a lump sum.

(e) LOTTO bet tickets may not be canceled once issued by the computer terminal. However, the agent may receive credit for any unreadable bet tickets issued, as these tickets (although unreadable) are recorded on the computer file as valid bets.

(f) If an agent applies for credit for an unreadable bet ticket and it is determined that such ticket would have qualified for a prize, the division may make a proportionate reduction in the number of shares into which the prize money for that prize category is divided,

thereby increasing the value of the prize available for each qualifying game panel.

(g) When any question shall arise as to the validity of a LOTTO drawing for any reason whatsoever, the director shall make the determination as to the validity of said drawing on the basis of the information at his disposal. His or her determination shall be a final determination.

§ 2817.7 Determination of prizes.

(a) For each LOTTO game, seven numbers will be randomly selected at a public drawing from a field of 59 numbers from 1 to and including 59. The first six randomly chosen numbers will be the winning numbers. The seventh number will be the bonus number. Prize levels are determined as follows:

Any game panel on the bet ticket having the following shall be deemed a winning game panel: -----	The following shall be prize categories: -----
All six winning numbers	First prize
Any five winning numbers plus the bonus number	Second prize
Any five winning numbers	Third prize
Any four winning numbers	Fourth prize
Any three winning numbers	Fifth prize

(b) The allocation of percentages of the prize pool to various prize categories may be changed by the division from time to time. Any such change will be publicly announced by the division. Such announcement may be made in a news release, an advertisement, on the division's website, or in such other form as the director, in his or her discretion, may prescribe to maximize public awareness. In addition to the prizes specified in this section, the division may offer special prizes from time to time, in the form of either cash or other valuable consideration, if such additional special prizes are authorized by the director in his or her discretion.

§ 2817.8 Chances of winning.

(a) First prize. Six numbers in one game panel. Chance of winning: 1 in 45,057,474. Chance of winning for a \$ 1 bet (two panels): 1 in 22,528,737. Percentage of prize pool:

75%.

(b) Second prize. Any five winning numbers plus the bonus number in one game panel. Chance of winning: 1 in 7,509,579. Chance of winning for a \$ 1 bet (two panels): 1 in 3,754,790. Percentage of prize pool: 7.25%.

(c) Third prize. Any five winning numbers in one game panel. Chance of winning: 1 in 144,415. Chance of winning for a \$ 1 bet (two panels): 1 in 72,207. Percentage of prize pool: 5.5%.

(d) Fourth prize. Any four winning numbers in one game panel. Chance of winning: 1 in 2,180. Chance of winning for a \$ 1 bet (two panels): 1 in 1,090. Percentage of prize pool: 6.25%.

(e) Fifth prize. Any three winning numbers in one game panel. Chance of winning: 1 in 96. Chance of winning for a \$ 1 bet (two panels): 1 in 48. Percentage of prize pool: 6%.

(f) Overall chance of winning a prize for a \$ 1 bet: 1 in 46. Note: The bonus number applies to the second prize only.

(g) The odds listed in this section have been rounded to the nearest whole number and assume random number selection by LOTTO players.

§ 2817.9 Maximum amount for LOTTO jackpots.

(a) If the director determines that it is in the best interest of the player and/or the state, the director may, at his or her discretion, set a maximum amount payable for a first prize for any LOTTO game. If this is done, such event will be publicly announced in advance of the draw for the game for which it is effective.

(b) In the event that a maximum first prize amount is established, any dollars in the first prize fund for a particular game draw in excess of the amount required to award the

maximum first prize shall be carried forward to the next jackpot for that game's draw after the maximum amount has been paid.

§ 2817.10 LOTTO Extra.

(a) LOTTO Extra is a feature of New York's LOTTO game. Except as otherwise noted in this section, the rules of LOTTO apply to all LOTTO Extra wagers.

(b) LOTTO Extra shall determine winners from bet tickets by correctly matching some or all of the numbers in the player's number selection against the winning numbers, bonus number and Extra bonus number drawn by the division for that drawing.

(c) Players of LOTTO Extra are automatically included in the respective LOTTO drawing, and have the added benefit of matching their number selections against the Extra bonus number for additional prize levels not available to LOTTO players.

(d) Forty percent of the gross LOTTO Extra sales for each LOTTO drawing shall be paid into the New York Lottery prize account for allocation of prize winnings.

(e) Not less than 38 percent of gross LOTTO Extra sales for a particular drawing shall be the amount allocated to the winning pool for that particular game.

(f) During each LOTTO drawing, the division will draw an Extra bonus number. Numbers will be drawn in the following sequence: the first randomly chosen six numbers will be the winning numbers; the seventh number will be the bonus; and the eighth number will be the Extra bonus number.

(g) LOTTO Extra bets may be purchased for a minimum of \$2.00 per two game panels; \$1.00 of such bet is on the LOTTO game, and \$1.00 of such bet is for the LOTTO Extra feature.

(h) Determination of Prizes: The prize structure and odds for this feature are:

	<u>Match</u>	<u>Odds</u>	<u>Pool Percentage</u>
	+ Either		
5	Bonus	3,754,789.50	14.50%
5		147,246.65	5.50%
	+ Either		
4	Bonus	29,449.33	25.25%
4		2,355.95	5.75%
	+ Either		
3	Bonus	883.48	15.00%
3		108.18	11.00%
	+ Either		
2	Bonus	72.12	23.00%
	Overall Odds	40.47	100.00%

(i) In the event that supplemental prize funds are necessary to fund prizes for Lotto Extra, those funds will be supplemented from unclaimed prize funds in accordance with sixteen hundred fourteen (a) of this article.

(j) At the discretion of the director, the division may offer additional features of the LOTTO game. Any additional feature of the LOTTO game offered by the division shall be established in an executive directive, and the details of such game feature shall be publicly announced by the division.

§ 2817.11 Variations of the LOTTO game.

The division may offer a variation of the LOTTO game that has a designated field of consecutive whole numbers beginning with one (1) to a number designated by the division not greater than sixty (60) from which a player may select up to six (6) numbers. The division reserves the discretion to offer additional versions of the LOTTO game with different prize structures and designated fields of numbers. If the division offers an additional version of the game, sections 2817.11 through 2817.18 of this Part shall continue to apply.

§ 2817.12 Distribution of prize money for variations of the LOTTO game.

(a) Prizes for a variation of the LOTTO game shall be calculated as follows:

(1) The first prize will be a prize of up to an amount designated by the division, which will be paid as a lump sum. A first prize will be awarded to game panels matching six (6) of six (6) winning numbers for a particular drawing. The division may limit the number of top first prizes for a particular drawing to no more than a designated number. If the limited number of top first prizes designated by the division is exceeded for a particular drawing, the winning first prize game panels will share equally in a maximum first prize pool equal to the product of the top first prize amount multiplied by the limited number of top first prizes designated by the division. At its discretion, the division may change the top first prize amount and any such change will be publicly announced in advance of the effective date.

(2) Prizes paid to the second through fourth prize levels shall be fixed prizes as prescribed by the division. There shall be a limit imposed on the second through fourth prize levels equal to a fixed percentage of the gross ticket sales receipts for that particular drawing. In the event that the limit would be exceeded for a particular draw, the second through fourth prize levels shall be calculated on a pari-mutuel basis in accordance with a formula established by the division.

(3) The allocation of percentages of the prize pool to various prize categories may be changed by the division from time to time. Any such change will be publicly announced by the division.

(b) In the event that the division offers an additional version of the LOTTO game, the method of calculation and distribution of prizes shall be publicly announced in advance by the division.

(c) A valid winning ticket valued at \$ 600 (six hundred dollars) or less and presented for payment within a number of days of the drawing date, as determined by the division, may be redeemed by a lottery sales agent. All other valid winning tickets may be redeemed at

a Customer Service Center. All prizes for any variation of the LOTTO game must be claimed within one year of the draw date.

(d) For the purpose of calculating any prize to be paid, the calculation shall be rounded down so that prize can be paid in multiples of one dollar.

§ 2817.13 Ticket sales for variations of the LOTTO game.

(a) The price for each wager in any variation of the LOTTO game shall be determined by the division.

(b) A play card is not a valid receipt for any game played. The bet ticket is the only valid receipt.

(c) No claimant will be considered eligible to receive a prize without presentation of a valid winning bet ticket.

(d) If for any reason, a bet ticket is not entirely legible or is misprinted or altered in any way, then the computer record created at the time of sale will be the sole method of determining whether such ticket is a valid winning ticket.

(e) A bet ticket for any variation of the LOTTO game may not be canceled once issued by the computer terminal. However, the agent may receive credit for any unreadable bet ticket issued, as these tickets (although unreadable) are recorded on the computer file as valid bets.

§ 2817.14 Prize funds for variations of the LOTTO game.

(a) Up to forty percent (40%) of gross ticket sales receipts for each variation of the LOTTO game draw date may be paid into the division prize account for allocation of prize winnings or as may be otherwise prescribed by the New York State Lottery for Education Law.

(b) The division may allocate a percentage of gross sales for a particular game drawing to the prize pool for that particular game, and not less than such amount shall form the basis upon which the payment of prizes for the particular game shall be computed; provided, however, that a lesser amount may be allocated to the prize pool if there is an excess of prize funds beyond the amount needed to pay a fixed prize.

(c) The director may allocate a percentage of gross sales receipts for any game drawing of a variation of the LOTTO game to prize pools for any other game drawing dates of that particular variation of the LOTTO game; provided, however, that a greater amount may be allocated to other prize pools of that particular variation of the LOTTO game if there is an excess of prize funds beyond the amount needed to pay a fixed prize. The amount so allocated shall be referred to as the prize fund reserve for that particular variation of the LOTTO game. This prize fund reserve may be used to fund promotions and maintain minimum prize levels, as determined by the director.

(d) In the event of termination of any variation of the LOTTO game for whatever reason, any prize monies remaining undistributed in the prize fund reserve for that particular variation of the LOTTO game will be disbursed for the sole benefit of winners of other division games at the discretion of the director.

§ 2817.15 Determination of prizes for variations of the LOTTO game.

(a) For a variation of the LOTTO game, six (6) numbers shall be randomly selected at a public drawing from a field of consecutive whole numbers beginning with one (1) to a number designated by the division not greater than sixty (60). The first six (6) randomly chosen numbers shall be the winning numbers. The method of determination of prizes shall be publicly announced in advance by the division.

(b) The prize structure and odds of winning may be publicly announced by the division in advance of the effective date.

(c) The division reserves the right to change the field of numbers. Any change in the field of numbers shall be publicly announced by the division in advance of the effective date.

(d) In addition to the announced prize structure, the division may offer special prizes from _____ time _____ to _____ time.

§ 2817.16 Procedures for claiming a prize for variations of the LOTTO game.

A prize may be claimed in any variation of the LOTTO game in accordance with this Title.

§ 2817.17 Disputes involving variations of the LOTTO game.

In the event a dispute occurs as to the validity of a prize claim for any variation of the LOTTO game, the director may refund the price of the wager paid by the player on that ticket. This shall be the sole and exclusive remedy of the holder of the ticket.

§ 2817.18 Miscellaneous provisions applicable to variations of the LOTTO game.

(a) All number selections or other information appearing on a bet ticket for any variation of the LOTTO game shall be deemed to be made or given exclusively by the player. Where one person submits a ticket as agent or nominee for another person or persons, the division shall not be deemed to have any knowledge of such transaction, and all dealings of the division will be conducted solely with the bearer of the ticket.

(b) The division reserves the right to change the prize structures, frequency of drawings, drawing dates, or the games themselves, and any such changes shall be publicly announced in advance by the division. Any public announcement provided for in sections 2817.11 through 2817.18 of this Part shall be made in a news release, an advertisement, on the division's website, or in such other form as the director, in his or her discretion, may prescribe to maximize public awareness.

(c) Any determination by the division described in sections 2817.11 through 2817.18 of this Part shall be made with consideration of any of the following goals:

- (1) to make the LOTTO game or any variation of the LOTTO game more appealing or convenient for players;
- (2) to further the division's mission of raising revenue for aid to education; or
- (3) to allow the division to administer the LOTTO game or any variation of the LOTTO game more effectively or efficiently.

(d) When any question shall arise as to the validity of a drawing of any variation of the LOTTO game for any reason whatsoever, the director shall make the determination as to the validity of said drawing on the basis of the information at his or her disposal. His or her determination shall be a final determination.

PART 2828 NEW YORK'S NUMBERS

Sec.

- 2828.1 New York's Numbers
- 2828.2 Definitions
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- 2828.4 Drawings
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§ 2828.1 New York's Numbers

The following rules pertain to New York's Numbers and are supplementary to those rules of general applicability heretofore and hereafter promulgated by the New York State Division of the Lottery.

§ 2828.2 Definitions

(a) On-line game refers to New York's Numbers game described herein, and to the on-line Lotto game described in Part 2817 of this Title and to any other games that may from time to time be implemented on a computerized terminal system.

(b) On-line game agent means a person licensed to sell the on-line games referred to in subdivision (a) of this section.

(c) Game means the New York's Numbers game under all forms of play described herein.

(d) Bet ticket means a computer-generated ticket issued by an on-line agent to a purchaser as a receipt for a bet. That receipt will be the sole acceptable evidence of the bet made. Bet tickets for New York's Numbers game may be purchased only from licensed on-line agents as previously defined herein.

(e) Drawing means the procedure, determined by the director, by which the winning numbers are drawn.

(f) Validation means the process of determining whether a bet ticket presented for cashing does or does not represent a winning bet.

§ 2828.3 Game description

New York's Numbers game shall determine winners from tickets by matching a permutation or segment of a 3-digit number from 000 to and including 999, randomly drawn at a regularly scheduled daily drawing. Correctly matching the 3-digit number or designated permutation thereof shall entitle the ticket holder to one of those prizes as described below:

(a) New York Numbers game bets may be purchased for a minimum of 50 cents and in multiples thereof to a maximum of \$ 5.

(b) The following types of bets are available for purchase:

(1) Straight. A 3-digit number designed to match in exact order the 3-digit winning number drawn for a given day.

(2) Six-way box. A 3-digit number in which all three digits are unique (for example, "123"), designed to match in any order the 3-digit winning number drawn for a given day.

(3) Three-way box. A 3-digit number in which two of the digits are the same (for example, "122"), designed to match in any order the 3-digit winning number drawn for a given day.

(4) Front pair. A 2-digit number designed to match in exact order the first and second digits of the 3-digit winning number drawn for a given day.

(5) Back pair. A 2-digit number designed to match in exact order the second and third digits of the 3-digit winning number drawn for a given day.

(6) Straight/six-way box. A 3-digit number in which all three digits are unique (for example, "123"), that generates one straight bet and one six-way box bet. Straight/six-way box bets are limited to 50 cents for each bet type for a ticket price of \$ 1.

(7) Straight/three-way box. A 3-digit number in which two of the digits are the same (for example, "122"), that generates one straight bet and one three-way box bet. Straight/three-way box bets are limited to 50 cents for each bet type for a ticket price of \$ 1.

(8) Combination six-way. A 3-digit number in which all three digits are unique (for example, "123"), that generates six straight bets. The minimum cost for which is \$ 3 (6 bets x 50 cents minimum bet).

(9) Combination three-way. A 3-digit number in which two of the digits are the same (for example, "122"), that generates three straight bets. The minimum cost for which is \$ 1.50 (3 bets X 50 cents minimum bet).

(c) Prize structure and odds for the numbers game.

Bet type	Odds	For each \$.50 bet	For each \$ 1 bet	Comment
Straight	1:1,000	\$ 250	\$ 500	
Box six-way	1:167	40	80	
Box three-way	1:333	80	160	
Front pair	1:100	25	50	

Bet type	Odds	For each \$.50 bet	For each \$ 1 bet	Comment
Back pair	1:100	\$ 25	\$ 50	
Straight/box six-way	1:167	290 440	N/A N/A	If straight hits If box only
Straight/box three-way	1:333	330 80	N/A N/A	If straight hits If box only
Combination six-way	1:167	250	500	
Combination three-way	1:333	250	500	

(d) The purchaser may place a bet for the current day or for one or more days in advance for up to six successive drawings from the day of transaction.

(e) To place a bet, a purchaser communicates the desired bet data (day, amount,

bet type and bet number selections) to an on-line game agent, who will issue a bet ticket. If desired, a purchaser may use the random number option (commonly referred to as "Quick Pick," "Easy Pick," or a similar term) for deciding bet number selections. When the random number option is used, the bet will be entered by computer in the next scheduled drawing as a straight bet in the amount of 50 cents and the numbers to be played will be randomly selected by computer. A purchaser using the random number option may specify his or her own choice of drawing date (s), bet type or bet amount. The agent enters the bet into a secure computer system via a computer terminal. Upon acceptance of and payment for the ticket issued by the on-line agent, the transaction shall become binding and final.

(f) The Lottery reserves the right at any time in its sole discretion to suspend play on any number(s) or to limit the number of bets made on any number(s) or combination(s).

(g) At some time in the future, the Lottery may change the Daily Numbers game from fixed prize payouts to pari-mutuel payouts. If the director determines that this change should be made, it will be publicly announced in advance of the effective date. Prizes for the Numbers game will be determined on a pari-mutuel basis (as explained below) for a test period of at least one month. If the director determines that it is in the best interest of the players and/or the State, he may, at his discretion, return prizes to a fixed payout basis. Such change will be publicly announced in advance of the date it is effective. Up to 50 percent of the sales from each drawing will be allocated to a prize pool for that drawing. The prize pool will be divided by the total amount bet on the winning Daily Number to arrive at the base prize amount from which all other prizes will be calculated as shown below. The director may, at his discretion, withhold up to two percent of the sales from each drawing for a prize reserve fund. This reserve fund may be used to fund promotions and maintain minimum prize levels, if desired. Prizes for all bets are calculated as a percentage of the base prize amount as follows:

Percentage of Base Prize for:

Bet type	\$.50 bet	\$ 1 bet	Comment
Straight	50.00%	100.00%	
Box six-way	8.33%	16.66%	
Box three-way	16.66%	33.33%	
Front pair	5.00%	10.00%	
Back pair	5.00%	10.00%	
Straight/box six-way	116.66% 16.66%	N/A	If straight hit If box only
Straight/box three-way	133.33%	N/A	If straight hit

	33.33%		If box only
Combination six-way	50.00%	100.00%	\$.50 bet cost is \$ 3
Combination three-way	50.00%	100.00%	\$.50 bet cost is \$ 1.50

Note: All prizes will be rounded down to the nearest 50-cent increment at the 50-cent payout level. The following is an example of a typical payout calculation.

Current sales = \$ 910,106.00

Prize pool = \$ 455,053.00 (50% of sales)

Total bet on winning number = \$ 603.78

Base prize = \$ 721.41 (prize pool divided by total bet on winning number) Payout for:

Bet type	\$.50 bet	\$ 1 bet	Comment
Straight	\$ 360.50	\$ 721.00	
Box six-way	60.00	120.00	
Box three-way	120.00	240.00	
Front pair	\$ 36.00	\$ 72.00	
Back pair	36.00	72.00	
Straight/box six-way	420.50 60.00	N/A	If straight hit If box only
Straight/box three-way	480.00 120.00	N/A	If straight hit If box only
Combination six-way	360.50	721.00	\$.50 bet is \$ 3
Combination three-way	360.50	721.00	\$.50 bet cost is \$ 1.50

(h) Lucky Sum is a feature of New York's Numbers game. Lucky Sum shall determine winners from bet tickets by correctly matching the sum of the player's number selection against the sum of the winning numbers drawn by the Lottery for that drawing.

(1) To place a bet, a purchaser must communicate:

(i) the desired game bet data to an agent pursuant to subdivision (e) of this section; and (ii) communicate to the agent that such purchaser's desire to add a Lucky Sum wager to the normal wager, who will issue a bet ticket. Such bet ticket will reflect the sum of the numbers played by the purchaser on that wager as the additional Lucky Sum wager.

(2) Lucky Sum wagers shall not be placed with pairs wagers.

(3) Up to fifty percent of the sales from each drawing will be allocated to a prize pool for that drawing.

(4) Prize structure and odds for this feature.

Sum of Number Picked	Number of Ways to Match a Number	Expected Odds	Prize
0	1	1,000	\$ 500.00
1	3	333	\$ 166.00
2	6	167	\$ 83.00
3	10	100	\$ 50.00
4	15	67	\$ 33.00
5	21	48	\$ 23.50
6	28	36	\$ 17.50
7	36	28	\$ 13.50
8	45	22	\$ 11.00
9	55	18	\$ 9.00
10	63	16	\$ 7.50
11	69	14	\$ 7.00
12	73	14	\$ 6.50
13	75	13	\$ 6.50
14	75	13	\$ 6.50
15	73	14	\$ 6.50
16	69	14	\$ 7.00
17	63	16	\$ 7.50
18	55	18	\$ 9.00
19	45	22	\$ 11.00
20	36	28	\$ 13.50
21	28	36	\$ 17.50
22	21	48	\$ 23.50
23	15	67	\$ 33.00
24	10	100	\$ 50.00
25	6	167	\$ 83.00
26	3	333	\$ 166.00
27	1	1,000	\$ 500.00

(5) Lucky Sum bets may be purchased for a minimum of \$ 1.00 per wager.

§ 2828.4 Drawings

(a) New York's Numbers drawings shall be held on a daily basis, Monday through Sunday, with the exception of certain holidays to be designated by the director.

(b) The director may postpone or revise the drawing schedule(s) and publicize the

same if he finds, in his discretion, that such postponement or rescheduling will serve to protect the public interest.

(c) The site and time of the Numbers drawings, as specified in subdivision (a) of this section, will be at locations specified by the director, publicly announced, and held in accordance with procedures promulgated by executive directive.

(d) At such time as may be deemed appropriate, the director may issue a directive designating a special Numbers draw where additional prizes may be awarded from the accumulated prize reserve monies.

(e) When any question shall arise as to the validity of a Lottery drawing for any reason whatsoever, the director shall make the determination as to the validity of said drawing on the basis of the information at his disposal. His determination shall be a final determination.

§ 2828.5 Ticket validation

To be a valid winner, a ticket must meet all validation requirements and be presented as follows:

(a) Prizes shall be claimed through on-line game agents or through claiming process established by the Lottery.

(b) All prizes must be claimed within one year of the drawing date. Winning tickets valued at \$ 600 or less and presented for payment within 45 days of the drawing date may be paid by an on-line agent. New York's Numbers tickets may be purchased at any on-line agent location. However, the Lottery operates two separate computer systems which are unable to communicate with each other. Therefore, winning tickets purchased at an on-line agent location operating on one system cannot be validated for prize payment at an agent location operating on the other system. In order to help distinguish between tickets sold on each computer system, the tickets will be printed with different colored lettering for the "New York's Lottery" heading. One system will use blue-lettered tickets and the other system will use green-lettered tickets. Winning tickets valued at more than \$ 600 and all winning tickets presented for payment more than 45 days after the drawing date cannot be paid by an on-line agent. All prizes for which a valid claim form is submitted at an on-line agent location or by mail will be paid by mailed check. Prizes (i) up to \$ 5,000 validly claimed at a Lottery office in person within one year after the drawing date and (ii) prizes between \$ 5,000 and \$ 500,000 validly claimed at a Lottery office in person within 180 days after the drawing date shall be paid by check at the time the claim is made, unless the prize or a portion thereof is required to be applied to the satisfaction of an overdue support obligations owed by the claimant.

(c) If for any reason, an on-line bet ticket is not entirely legible, is incomplete, or is misprinted or altered in any way, then the on-line computer file created at the time of sale will be the sole method of validation of such ticket. The Lottery reserves the right to refuse payment if all validation tests are not successfully completed.

(d) Neither the State Lottery nor the contractors shall be responsible for lost or stolen tickets or for tickets redeemed or cancelled in error.

(e) Lottery rules do not allow for the payment of prizes for previously redeemed or cancelled tickets. Accordingly, neither the State Lottery nor the contractors shall be responsible for bet tickets inadvertently returned to a player following redemption or cancellation by an agent. In such cases, the on-line computer file will be the sole method for determining whether the ticket has been previously redeemed or cancelled.

§ 2828.6 Disputes

In the event a dispute between the Lottery and/or the contractor and the player occurs as to whether a ticket is a winning ticket, and if the ticket prize is not paid, the director may, if he considers there is any doubt, replace the entry cost of the ticket. This shall be the sole and exclusive remedy of the player of the ticket.

PART 2832
WIN-4

Sec.

- 2832.1 Win – 4
- 2832.2 Definitions
- 2832.3 Game Description
- 2832.4 Drawings
- 2832.5 Ticket Validation
- 2832.6 Disputes

§ 2832.1 Win-4

The following rules pertain to Win-4 and are supplementary to those rules of general applicability heretofore and hereafter promulgated by the New York State Division of the Lottery.

§ 2832.2 Definitions

(a) On-Line game refers to Win-4 described herein, and to the New York's Numbers game described in Part 2828 of this Title and on-line Lotto game described in Part 2817 of this Title and to any other games that may from time to time be implemented on a computerized terminal system.

(b) On-line game agent means a person licensed to sell the on-line games referred to in subdivision (a) of this section.

(c) Game means the Win-4 under which all forms of play are described herein.

(d) Bet ticket means a computer-generated ticket issued by an on-line agent to a purchaser as a receipt for a bet. That receipt will be the sole acceptable evidence of the bet made. Bet tickets for the Win-4 game may be purchased only from licensed on-line agents as previously defined herein.

(e) Drawing means the procedure, determined by the director, by which the winning numbers are drawn.

(f) Validation means the process of determining whether a bet ticket presented for cashing does or does not represent a winning bet.

§ 2832.3 Game description

Win-4 game shall determine winners from tickets matching a permutation of a 4-digit number from 0000 to and including 9999 randomly drawn at a regularly scheduled drawing conducted by the Lottery as described in section 2832.4 of this Part. Correctly matching the winning 4-digit number drawn, or a designated permutation thereof shall entitle the ticket holder to one of the prizes described in subdivision (c) of this section.

(a) Win-4 bets may be purchased for a minimum of 50 cents and in multiples of 50 cents thereof to a maximum of \$ 5.

(b) The following types of bets will be used in the determination of winners for the specified draw day indicated on the bet ticket. Straight/box and combination bets will be available on August 10, 1986, or as soon thereafter as possible.

(1) Straight. A 4-digit number (for example, "1234") designed to match in exact sequence the 4-digit winning number drawn.

(2) Twenty-four-way box. A 4-digit number in which all four digits are unique (for example, "1234") designed to match in any order the winning 4-digit number drawn for a given day.

(3) Twelve-way box. A 4-digit number in which two of the digits are the same (for example, "1233") designed to match in any order the winning 4-digit number drawn for a given day.

(4) Six-way box. A 4-digit number in which there are two pairs of identical numbers (for example, "1122") designed to match in any order the winning 4-digit number drawn for a given day.

(5) Four-way box. A 4-digit number in which three of the digits are the same (for example, "1112") designed to match in any order the winning 4-digit number drawn for a given day.

(6) Straight/twenty-four-way box. A 4-digit number in which all four digits are unique (for example, "1234") that generates one straight bet and one box bet on a single ticket. Straight/box bets are limited to 50 cents for each bet type for a ticket price of \$ 1.

(7) Straight/twelve-way box. A 4-digit number in which two of the digits are the same (for example, "1233") that generates one straight bet and one box bet on a single ticket. Straight/box bets are limited to 50 cents for each bet type for a ticket price of \$ 1.

(8) Straight/six-way box. A 4-digit number in which there are two pairs of identical digits (for example, "1122") that generates one straight bet and one box bet on a single ticket. Straight/box bets are limited to 50 cents for each bet type for a ticket price of \$ 1.

(9) Straight/four-way box. A 4-digit number in which three of the digits are the same (for example, "1112") that generates one straight bet and one box bet on a single ticket. Straight/box bets are limited to 50 cents for each bet type for a ticket price of \$ 1.

(10) Twenty-four-way combination. A 4-digit number in which all four digits are unique (for example, "1234") that generates 24 straight bets on a single ticket. The minimum cost for which is \$ 12 (24 bets x \$.50 minimum bet).

(11) Twelve-way combination. A 4-digit number in which two of the digits are the same (for example, "1233") that generates 12 straight bets on a single ticket. The minimum cost for which is \$ 6 (12 bets x \$.50 minimum bet).

(12) Six-way combination. A 4-digit number in which there are two pairs of identical digits (for example, "1122") that generates six straight bets on a single ticket. The minimum cost for which is \$ 3 (6 bets x \$.50 minimum bet).

(13) Four-way combination. A 4-digit number in which three of the digits are the same (for example, "1112") that generates four straight bets on a single ticket. The minimum cost for which is \$ 2 (4 bets x \$.50 minimum bet).

(c) Prize structure and game odds for Win-4.

Bet Type and Prize Payouts Per Amount Bet

Bet Type	50 cents	\$ 1	\$ 2	\$ 3	\$ 4	\$ 5
Straight	\$2,500	\$5,000	\$10,000	\$15,000	\$20,000	\$25,000
Box(24)	100	200	400	600	800	1,000
Box(12)	200	400	800	1,200	1,600	2,000
Box(6)	400	800	1,600	2,400	3,200	4,000
Box(4)	600	1,200	2,400	3,600	4,800	6,000

Straight/Box (24) \$ 2,600 If Straight hits
100 If Box only

Straight/Box(12) \$ 2,700 If Straight hits
100 If Box only

Straight/Box (12) \$ 2,700 If Straight hits
200 If Box only

Straight/Box (6) \$ 2,900 If Straight hits
400 If Box only

Straight/Box (4) \$ 3,100 If Straight hits
600 If Box only

Combination (all types) \$2,500 \$5,000 \$10,000 \$15,000 \$20,000 \$25,000

Game odds:

Bet type	Odds
Straight	1:10,000
Box(24)	1:417
Box(12)	1:833

Box(6)	1:1,667
Bet type	Odds
Box(4)	1:2,500
Straight/Box(24)	1:417
Straight/Box(12)	1:833
Straight/Box(6)	1:1,667
Straight/Box(4)	1:2,500
Combination(24)	1:417
Combination(12)	1:833
Combination(6)	1:1,667
Combination(4)	1:2,500

(d) The purchaser may place a bet for the current day or for one or more days in advance for up to six successive drawings from the day of the transaction.

(e) To place a bet, a purchaser communicates the desired bet data (day, amount, bet type and bet number selections) to an on-line game agent, who will issue a bet ticket. If desired, a purchaser may use the random number option (commonly referred to as "Quick Pick," "Easy Pick," or a similar term) for deciding bet number selections. When the random number option is used, the bet will be entered by computer in the next scheduled drawing as a straight bet in the amount of 50 cents and the numbers to be played will be randomly selected by computer. A purchaser using the random number option may specify his or her own choice of drawing date (s), bet type or bet number. The agent enters the bet into a secure computer system via a computer terminal. Upon acceptance of and payment for the ticket issued by the on-line agent, the transaction shall become binding and final.

(f) The Lottery reserves the right at any time in its sole discretion to suspend play on any number(s) or to limit the number of bets made on any number(s) or combination(s).

(g) Lucky Sum is a feature of Win-4 game. Lucky Sum shall determine winners from bet tickets by correctly matching the sum of the player's number selection against the sum of the winning numbers drawn by the Lottery for that drawing.

(1) Lucky Sum wagers shall not be placed with pairs wagers.

(2) To place a bet, a purchaser must communicate:

(i) the desired game bet data to an agent pursuant to subdivision (e) of this section; and (ii) communicate to the agent that such purchaser's desire to add a Lucky Sum

wager to the normal wager, who will issue a bet ticket. Such bet ticket will reflect the sum of the numbers played by the purchaser on that wager as the additional Lucky Sum wager.

(3) Up to fifty percent of the sales from each drawing will be allocated to a prize pool for that drawing.

(4) Prize structure and odds for this feature.

Sum of Number Picked	Number of Ways to Match a Number	Expected Odds	Prize
0	1	10,000	\$ 5,000.00
1	4	2,500	\$ 1,250.00
2	10	1,000	\$ 500.00
3	20	500	\$ 250.00
4	35	286	\$ 142.00
5	56	179	\$ 89.00
6	84	119	\$ 60.00
7	120	83	\$ 42.00
8	165	61	\$ 30.00
9	220	45	\$ 22.50
10	282	35	\$ 17.50
11	348	29	\$ 14.00
12	415	24	\$ 12.00
13	480	21	\$ 10.00
14	540	19	\$ 9.00
15	592	17	\$ 8.00
16	633	16	\$ 7.50
17	660	15	\$ 7.50
18	670	15	\$ 7.50
19	660	15	\$ 7.50
20	633	16	\$ 7.50
21	592	17	\$ 8.00
22	540	19	\$ 9.00
23	480	21	\$ 10.00
24	415	24	\$ 12.00
25	348	29	\$ 14.00
26	282	35	\$ 17.50
27	220	45	\$ 22.50
28	165	61	\$ 30.00
29	120	83	\$ 42.00
30	84	119	\$ 60.00
31	56	179	\$ 89.00
32	35	286	\$ 142.00
33	20	500	\$ 250.00
34	10	1,000	\$ 500.00
35	4	2,500	\$ 1,250.00
36	1	10,000	\$ 5,000.00

(5) Lucky Sum bets may be purchased for a minimum of \$ 1.00 per wager.

§ 2832.4 Drawings

(a) Win-4 drawings shall be held on a daily basis, Monday through Sunday, with the exception of certain holidays to be designated by the director.

(b) The director may postpone or revise the drawing schedule(s) and publicize the same if he finds, in his discretion, that such postponement or rescheduling will serve to protect the public interest.

(c) The site and time of the Win-4 drawings, as specified in subdivision (a) of this section, will be at locations specified by the director, publicly announced, and held in accordance with procedures promulgated by executive directive.

(d) At such time as may be deemed appropriate, the director may issue a directive designating a "Special Win-4 Draw" where additional prizes may be awarded from the accumulated prize reserve monies.

(e) When any question shall arise as to the validity of a Lottery drawing for any reason whatsoever, the director shall make the determination as to the validity of said drawing on the basis of the information at his disposal. His determination shall be a final determination.

§ 2832.5 Ticket validation

To be a valid winner, a ticket must meet all validation requirements and be presented as follows:

(a) Prizes shall be claimed through on-line game agents or through a claiming process established by the Lottery.

(b) All prizes must be claimed within one year of the drawing date. Winning tickets valued at \$ 600 or less and presented for payment within 45 days of the drawing date may be paid by an on-line agent. Win-4 tickets may be purchased at any on-line agent location. However, the Lottery operates two separate computer systems which are unable to communicate with each other. Therefore, winning tickets purchased at an on-line agent location operating on one system cannot be validated for prize payment at an agent location operating on the other system. In order to help distinguish between tickets sold on each computer system, the tickets will be printed with different colored lettering for the "New York's Lottery" heading. One system will use blue-lettered tickets and the other system will use green-lettered tickets. Winning tickets valued at more than \$ 600 and all winning tickets presented for payment more than 45 days after the drawing date cannot be paid by an on-line agent. All prizes for which a valid claim form is submitted at an agent location or by mail will be paid by mailed check. Prizes (i) up to \$ 5,000 validly claimed at a Lottery office in person within one year after the drawing date and (ii) prizes between \$ 5,000 and \$ 500,000 validly claimed at a Lottery office in person within 180 days after the drawing date shall be paid by check at the time the claim is made, unless the prize or a portion thereof is required to be applied to the satisfaction of an overdue support obligation owed by the claimant.

(c) If, for any reason, an on-line bet ticket is not entirely legible, is incomplete, or is misprinted or altered in any way, then the on-line computer file created at the time

of sale will be the sole method of validation of such ticket. The Lottery reserves the right to refuse payment if all validation tests are not successfully completed.

(d) Neither the State Lottery nor the contractors shall be responsible for lost or stolen tickets or for tickets redeemed or cancelled in error.

(e) Lottery rules do not allow for the payment of prizes for previously redeemed or cancelled tickets. Accordingly, neither the State Lottery nor the contractors shall be responsible for bet tickets inadvertently returned to a player following redemption or cancellation by an agent. In such cases, the on-line computer file will be the sole method for determining whether the ticket has been previously redeemed or cancelled.

§ 2832.6 Disputes

In the event a dispute between the Lottery and/or the contractor and the player occurs as to whether a ticket is a winning ticket, and if the ticket prize is not paid, the director may, if he considers there is any doubt, replace the entry cost of the ticket. This shall be the sole and exclusive remedy of the player of the ticket.

PART 2833 PICK-10

Sec.

2833.1 Definitions

2833.2 Payment of prizes and chances of winning for Pick-10

2833.3 Withholding

2833.4 Procedures for claiming a prize

2833.5 Disputes

2833.6 Ticket sales

2833.7 Prize funds

2833.8 Miscellaneous

§ 2833.1 Definitions

The definitions below apply to the Pick-10 game herein described:

(a) Game is a generic term which refers to a specific field of numbers from which a player may select a specific subset of numbers.

(b) On-line agent means a person licensed to sell all lottery tickets, instant and automated, pursuant to Part 2801 of this Title.

(c) On-line Pick-10 means the Pick-10 game played at on-line agent locations.

(1) Pick-10 is a game which has one field of 80 numbers from which a player selects 10 numbers.

(2) Prizes for the Pick-10 game shall be awarded for tickets on which various numbers of player selections match the winning numbers drawn. Prizes, payouts,

and chances of winning are set forth in section 2833.2 of this Part.

(d) Pick-10 play card means a card which contains four game panels of numbered squares used by a player to select the game he desires to play, the number of game panels to be played and the specific subset of numbers for each game selected. There is a separate play card for the Pick-10 game.

(1) Play cards are not valid receipts for any Pick-10 game played. The bet ticket (see subdivision (f) of this section) is the only valid receipt.

(2) The play card is the customary method of presenting a player's selection to an on-line agent. However, the player's number selections may be manually entered into the computer terminal by the terminal operator.

(3) Manual entry means the capability of the terminal operator to enter the player's selections into the terminal through verbal communication by the player, or if a play card is incorrectly marked.

(4) Random number option (commonly referred to as "Quick Pick," "Easy Pick," or a similar term) means the option given to players to have the numbers to be played selected by computer. When the random number option is used, the bet will be entered by computer in the next scheduled drawing and the numbers to be played will be randomly selected by computer. If a player using the random number option specifies his or her own choice of draw date(s) then only the remaining bet data variables will be selected by computer.

(e) Pick-10 game panel means the area of the Pick-10 play card that contains 80 squares numbered 1 through 80.

(f) Bet ticket means the ticket generated by the computer terminal based on input received from the player's play card, random number option or manual entry. The bet ticket is the only valid receipt for a Pick-10 bet placed. Players should, while still at the point of purchase, verify that the selections on the play card are the same as those on the bet ticket.

(g) Computer terminal means the device at the on-line agent location authorized by the New York State Lottery for the placing of Pick-10 bets.

(h) Draw date means the date on which the winning numbers are drawn for the Pick-10 game. Drawings will be conducted on a daily basis.

(i) Drawing refers to the formal process of selecting winning numbers which determine the number of winners for each prize level for a particular game.

(j) Net sales means the sum of the dollar purchases (after cancellations) of Pick-10 tickets eligible for a particular Pick-10 game draw date.

(k) Prize pool means 40 percent of the net sales for a particular drawing which is allocated for the purpose of paying prizes in that game.

(l) Director means the Director of the New York State Lottery or any other person to whom the Director's authority is lawfully delegated.

(m) Lottery rules and regulations means the rules and regulations currently in force as adopted by the division.

(n) Lottery or State Lottery means the New York State Lottery operated pursuant to Article 34 of the Tax Law.

(o) Validation means the process of determining whether a bet ticket presented for prize redemption does or does not represent a winning bet.

§ 2833.2 Payment of prizes and chances of winning for Pick-10

(a) Prizes will be paid for all tickets on which the player selections match the winning numbers drawn for the day or days played. The number of selections which must match the winning numbers drawn, and the prize won is shown in the chart below:

Winning numbers matched	Prize	Chances of winning
10	\$ 500,000	1 in 8,911,711
9	\$ 6,000	1 in 163,381

Winning numbers matched	Prize	Chances of winning
8	\$ 300	1 in 7,384
7	\$ 40	1 in 621
6	\$ 10	1 in 87
0	\$ 4	1 in 22

Overall chances of winning: 1 in 17

These odds have been rounded to the nearest whole number. For any drawing in which there are more than 10 tickets on which the player selections match 10 winning numbers, the total prize payments available for such winning tickets shall be limited to \$ 5,000,000; and the amount of the prize payable to the holder of each such ticket shall be determined by dividing the sum of \$ 5,000,000 by the number of such tickets.

(b) All prizes must be claimed within one year of the drawing date. Valid winning tickets valued at \$ 600 or less and presented for payment within 45 days of the drawing date may be paid by an on-line agent. Pick-10 tickets may be purchased at any on-line agent location. However, the Lottery operates two separate computer systems which are unable to communicate with each other. Therefore, winning tickets purchased at an on-line agent operating on one system cannot be cashed at an agent operating on the other system. In order to help distinguish between tickets sold on each computer system, the tickets will be printed with different colored lettering for the "New York's Lottery" heading. One system will use blue-lettered tickets and the other system will use green-lettered tickets.

(c) The holder of a winning ticket may win only one prize per game panel in connection with the winning numbers drawn for a particular Pick-10 game, but shall

be entitled to the highest prize won by those numbers.

(d) A Pick-10 reserve will be created using the funds made available as a result of drawings in which the total prizes paid are less than the 40-percent prize pool. This reserve may be used, at the option of the director, to increase any or all prize levels. Such increases may be permanent or for a specific period of time.

§ 2833.3 Withholding

Federal, State and local withholding taxes shall be withheld by the Lottery from prize payments in such amounts as may be required in accordance with the applicable provisions of law.

§ 2833.4 Procedures for claiming a prize

(a) Winning tickets valued at more than \$ 600, and presented for payment more than 45 days after the draw date cannot be paid by an on-line agent. All prizes for which a valid claim form is submitted at an on-line agent location or by mail will be paid by mailed check. Prizes (1) up to \$ 5,000 validly claimed at a Lottery office in person within one year after the draw date and (2) prizes between \$ 5,000 and \$ 500,000 validly claimed at a Lottery office in person within 180 days after the draw date shall be paid by check at the time the claim is made, unless the prize or a portion thereof is required by law to be applied to the satisfaction of an overdue support obligation owed by the claimant. Prizes cannot be claimed at a Lottery office until after the final draw date shown on the ticket.

(b) A bet ticket is deemed to be a bearer instrument. Neither the New York State Lottery nor its contractors shall be responsible for lost or stolen Pick-10 tickets, nor for alleged winning tickets thrown away by mistake. Neither the Lottery nor the contractor shall be responsible for Pick-10 tickets redeemed or cancelled in error from a player.

§ 2833.5 Disputes

In the event a dispute occurs between the Lottery and a player as to whether a ticket is a winning ticket, and if the ticket prize is not paid, the director may, at his discretion, refund any entry cost of the panel played by the player on that ticket. This section shall be the sole and exclusive remedy of the holder of the ticket.

§ 2833.6 Ticket Sales

(a) No person shall sell a Pick-10 ticket at a price greater than that fixed by the Lottery.

(b) The price of each game panel for the Pick-10 game is \$ 1. One, two, three or four game panels may be played on each play card.

(c) Bets may be placed either for the next scheduled drawing or for up to seven consecutive drawings. No other bet durations are available.

§ 2833.7 Prize funds

(a) Forty percent of net sales for each Pick-10 game draw date shall be paid into the New York Lottery prize account for allocation of prize winnings.

(b) In the event of termination of the Pick-10 game for any cause, any prize monies remaining unallocated in the New York State Lottery prize account will be disbursed for the sole benefit of winners of other lottery games at the total discretion of the director.

§ 2833.8 Miscellaneous

(a) All number selections or other information appearing on a Pick-10 bet ticket shall be deemed to be made or given exclusively by the player. Where one person submits a ticket as agent or nominee for another person or persons, the Lottery shall not be deemed to have any knowledge of such transaction and all dealings of the Lottery will be conducted solely with the bearer of the ticket.

(b) No claimant will be considered eligible to receive a prize without the presentation and surrender of a valid winning bet ticket.

(c) The New York State Lottery reserves the right to change the prize structure, frequency of draws, draw dates or the game itself.

(d) If, for any reason, an on-line bet ticket is not entirely legible or is misprinted or altered in any way, then the on-line computer record created at the time of sale will be the sole method of validation of the ticket. The Lottery reserves the right to refuse payment if all validation tests are not successfully completed.

(e) When any question shall arise as to the validity of a lottery drawing for any reason whatsoever, the director shall make the determination as to the validity of said drawing on the basis of information at his disposal. His determination shall be a final determination.

(f) Neither the Lottery nor its contractors shall be responsible for lost or stolen tickets or for tickets redeemed or cancelled in error.

(g) Lottery rules do not allow for the payment of prizes for previously redeemed or cancelled tickets. Accordingly, neither the Lottery nor the contractors shall be responsible for bet tickets inadvertently returned to a player following redemption or cancellation by an agent. In such cases, the on-line computer file will be the sole method for determining whether the ticket has been previously redeemed or cancelled.

PART 2834 TAKE FIVE

Sec.

2834.1 Definitions

2834.2 Payment of prizes

2834.3 Withholding

2834.4 Procedures for claiming a prize

2834.5 Disputes

- 2834.6 Ticket sales
- 2834.7 Prize funds
- 2834.8 Miscellaneous
- 2834.9 Determination of prizes
- 2834.10 Chances of winning

§ 2834.1 Definitions

The definitions below apply to the Take Five game herein described.

(a) On-line Take Five means a game played by placing 5-digit number bets at on-line agent locations.

(b) On-line agent means a person licensed to sell all lottery tickets, instant and automated, pursuant to Part 2801 of this Title.

(c) Game is a generic term which refers to a specific field of numbers from which a player may select a specific subset of numbers. Take Five is a game which has one field of 39 numbers from which a player selects five numbers.

(d) Play card means a card which contains 5 game panels of numbered squares used by a player to select the games the player desires to play, the number of game panels to be played and the specific subset of numbers for each game selected.

(1) A play card is not a valid receipt for any Take Five game played. The bet ticket (see subdivision (f) of this section) is the only valid receipt.

(2) The play card is the customary method of presenting a player's selections to an on-line agent. However, the player's number selections may be manually entered into the computer terminal by the terminal operator.

(3) Manual entry means the capability of the terminal operator to enter the player's selections into the terminal in response to verbal communication by the player, or if a play card is incorrectly marked.

(4) Random number option (commonly referred to as "Quick Pick," "Easy Pick," or a similar term) means the option given to players to have the numbers to be played randomly selected by computer. The random number option is initiated by the terminal operator and may be used to place a full five-number bet or to complete a bet in which fewer than five numbers have been chosen by the player.

(e) Take Five game panel means the area of the Take Five play card that contains 39 squares numbered 1 through 39.

(f) Bet ticket means the ticket generated by the computer terminal based on input received from the player's play card, random number option or manual entry. The bet ticket is the only valid receipt of a Take Five bet placed. Players should, while still at the point of purchase, verify that the game and number selections on the play card are the same as those on the bet ticket.

(g) Computer terminal means the device at the on-line agent location authorized by the New York State Lottery for the placing of Take Five bets.

(h) Drawing date means the weekly date(s) determined by the director on which the winning numbers are drawn for the Take Five game.

(i) Drawing refers to the formal process of selecting winning numbers which determine the number of winners for each prize level for a particular game.

(j) Gross sales means the sum of the dollar purchases of Take Five tickets eligible for a particular Take Five drawing date.

(k) Winning pool means 50 percent of the gross sales for a particular Take Five game which is allocated for the purpose of paying prizes in that game.

(l) Director means the Director of the New York State Lottery or any other person to whom the director's authority is lawfully delegated.

(m) Lottery rules and regulations means the rules and regulations in this Title.

(n) Lottery means the New York State Lottery.

§ 2834.2 Payment of prizes

(a) Prizes for all games shall be calculated as follows:

(1) The prize money allocated from the winning pool to the first prize category shall be divided equally by the number of game panels qualifying for a first prize. For any Take Five drawing in which there is no game panel qualifying for a first prize, the money allocated to the first prize category shall be added to the money allocated to the second prize category.

(2) The prize money allocated from the winning pool to the second prize category shall be divided equally by the number of game panels qualifying for a second prize. For any Take Five drawing in which there is no game panel qualifying for a second prize, the money allocated to the second prize category shall be added to the money allocated to the third prize category.

(3) The prize money allocated from the winning pool to the third prize category shall be divided equally by the number of game panels qualifying for a third prize.

(4) No prize money will be allocated from the winning pool to the fourth prize category. The fourth prize shall be a free play in a future drawing of the Take Five game to be awarded to each game panel which qualifies for a fourth prize.

(b) All cash prizes must be claimed within one year of the drawing date. Valid winning tickets valued at \$ 600 or less and presented for payment within 45 days of the drawing date may be paid by an on-line agent. Free-plays must be claimed within 45 days of the drawing date and must be claimed at an on-line agent location. Take Five tickets may be purchased at any on-line agent location. However, the Lottery operates two separate computer systems which are unable to communicate with each other. Therefore, winning tickets purchased at an on-line agent operating on one system cannot be cashed at an agent operating on the other system. In order to help distinguish between tickets sold on each computer system, the tickets will be

printed with different colored lettering for the "New York State Lottery" heading. One system will use blue-lettered tickets and the other system will use green-lettered tickets.

(c) For the purpose of calculating any cash prize to be paid, the calculation shall be rounded down so that prize can be paid in multiples of 50 cents.

(d) The holder of a winning ticket may win only one prize per game panel in connection with the winning numbers drawn for a particular Take Five game, but shall be entitled to the highest prize won by those numbers.

(e) The payment of prizes to persons under 18 years of age and to those who are known to have died before receiving any or all of the particular prize shall be paid as prescribed in Lottery rules and regulations, sections 2803.8 and 2803.9 of this Title.

§ 2834.3 Withholding

Federal, State and local withholding taxes shall be withheld by the Lottery from prize payments in such amounts as may be required in accordance with the applicable provisions of law.

§ 2834.4 Procedures for claiming a prize

(a) Winning tickets valued at more than \$ 600 and all winning tickets presented for payment more than 45 days after the draw date cannot be paid by an on-line agent. All cash prizes for which a valid claim form is submitted at an on-line agent location or by mail will be paid by mailed check. Free-plays must be claimed within 45 days of the drawing date and must be claimed at an on-line agent location. Cash prizes:

(1) up to \$ 5,000 validly claimed at a Lottery office in person within one year after the draw date; and

(2) prizes between \$ 5,000 and \$ 500,000 validly claimed at a Lottery office within 180 days after the draw date shall be paid by check at the time the claim is made unless the prize or a portion thereof is required by law to be applied to the satisfaction of an overdue child support obligation owed by the claimant.

(b) A bet ticket is deemed to be a bearer instrument. Neither the New York State Lottery nor its agents or contractors shall be responsible for lost or stolen Take Five bet tickets, or for alleged winning tickets thrown away by mistake. Neither the New York State Lottery nor its agents or contractors shall be responsible for Take Five bet tickets redeemed or cancelled in error from a player.

§ 2834.5 Disputes

In the event a dispute occurs between the Lottery and/or the contractors and the player as to whether a ticket is a winning ticket, and if the ticket prize is not paid, the director may refund any entry cost of the panels played by the player on that ticket. This shall be the sole and exclusive remedy of the player of the ticket.

§ 2834.6 Ticket sales

(a) No person shall sell a Take Five ticket at a price greater than that fixed by this Part.

(b) The minimum number of game panels that must be played for the Take Five game is one for \$ 1 and increments of one game panel thereafter. Two, three, four or five panels may be played for \$ 2, \$ 3, \$ 4 or \$ 5 respectively.

§ 2834.7 Prize funds

(a) Fifty percent of gross sales for each Take Five game draw date shall be paid into the New York Lottery prize account for allocation of prize winnings.

(b) Not less than 50 percent of gross sales for a particular Take Five drawing shall be the amount allocated to the winning pool for that particular game, and not less than such amount shall form the basis upon which the payment of prizes for the particular game shall be computed.

(c) In the event of termination of the Take Five game for whatever cause, any prize monies remaining undistributed in the New York State Lottery prize account will be disbursed for the sole benefit of winners of other Lottery games at the total discretion of the director.

§ 2834.8 Miscellaneous

(a) All number selections or other information appearing on a Take Five bet ticket shall be deemed to be made or given exclusively by the player. Where one person submits a ticket as agent or nominee for another person or persons, the Lottery shall not be deemed to have any knowledge of such transaction, and all dealings of the Lottery will be conducted solely with the bearer of the ticket.

(b) No claimant will be considered eligible to receive a prize without presentation of a valid winning bet ticket.

(c) The New York State Lottery reserves the right to change the prize structure, frequency of draws, draw dates, or the game themselves.

(d) If for any reason, an on-line bet ticket is not entirely legible or is misprinted or altered in any way, then the on-line computer record created at the time of sale will be the sole method of validation of such ticket.

(e) Take Five bet tickets may be canceled, once issued, by the issuing computer terminal within the time permitted by the Lottery.

(f) When any question shall arise as to the validity of a Lottery drawing for any reason whatsoever, the director shall make a determination as to the validity of said drawing on the basis of the information at his disposal. His determination shall be a final determination.

§ 2834.9 Determination of prizes

For each Take Five game, five winning numbers shall be randomly selected at a public drawing from a field of 39 numbers from 1 to and including 39.

Any game panel on the bet ticket having the following following shall be deemed to be a winning game panel:

The following shall be the prize categories:

The following shall be the percentage of the winning pool allocated to prize categories:

All five winning	First prize	20%
Any four winning	Second prize	30%
Any three winning	Third prize	50%
Any two winning	Fourth prize	0%

§ 2834.10 Chances of winning

(a) First prize. Five winning numbers in one game panel. Chances of winning: 1 in 575,757.

(b) Second prize. Any four winning numbers in one game panel. Chances of winning: 1 in 3,387.

(c) Third prize. Any three winning numbers in one game panel. Chances of winning: 1 in 103.

(d) Fourth prize. Any two winning numbers in one game panel. Chances of winning: 1 in 9.6. Overall chances of winning a prize for a \$ 1 bet: 1 in 8.77.

PART 2835 QUICK DRAW

(Statutory Authority: Tax Law, § 1604[a])

Sec.

- 2835.1 Definitions
- 2835.2 Payment of prizes; Chances of Winning
- 2835.3 Withholding
- 2835.4 Procedures for claiming a prize
- 2835.5 Disputes
- 2835.6 Ticket sales
- 2835.7 Prize funds
- 2835.8 Miscellaneous

§ 2835.1 Definitions

The definitions below apply to the Quick Draw game herein described:

(a) Game is a generic term which refers to a specific field of numbers from which a player may select a specific subset of numbers.

(b) On-line agent means a person licensed to sell various lottery tickets, instant and automated, pursuant to Part 2801 of this Title.

(c) On-line Quick Draw means the Quick Draw game played at on-line agent locations with television monitor and controller.

(1) Quick Draw is a game which has one field of 80 numbers from which a player selects from 1 to 10 numbers.

(2) Prizes for the Quick Draw game will be awarded for tickets on which various numbers of player selections match the winning numbers drawn. Prizes and payouts are set forth in Section 2835.2 of this Part.

(d) Quick Draw play card means a card which contains four (4) designated areas used by a player to select the number of spots (numbers) he or she desires to play, the specific subset of numbers he or she selects, the amount of money he or she desires to play per draw and the specific number of consecutive draws he or she desires to play. There is a separate play card for the Quick Draw game.

(1) Play cards are not valid receipts for any Quick Draw game played. The bet ticket (see subdivision (f) of this section) is the only valid receipt.

(2) The play card is the method of presenting a player's selection to an on-line Quick Draw agent.

(3) Random number option (commonly referred to as "Quick Pick," "Easy Pick," or a similar term) means the option given to players to have the numbers to be played selected by computer. When the random number option is selected, the bet will be entered by computer in the next scheduled draw (and the numbers to be played will be randomly selected by computer.)

(e) Quick Draw game panel means the area of the Quick Draw play card that contains 80 bracketed areas numbered 1 through 80 plus the Quick Pick option.

(f) Bet ticket means the ticket generated by the computer terminal based on Quick Pick or input received from the player's play card. The bet ticket is the only valid receipt for a Quick Draw bet placed. Players should, while still at the point of purchase, verify that the selections on the play card are the same as those on the bet ticket.

(g) Computer terminal with television monitor and controller means the device at the on-line agent location authorized by the New York State Lottery for the placing of Quick Draw bets.

(h) Draw means the time at which the winning numbers are drawn for the Quick Draw game. Draw will be held daily at intervals during the hours designated by the Director. If for any reason a drawing cannot be held, the next draw will take place at the next scheduled draw time.

(i) Draw postponement means that if for any reason a particular draw cannot be completed at the appropriate time, an issued bet ticket shall be valid for the next scheduled and completed draw.

(j) Drawing refers to the process of randomly selecting by computer the winning numbers which determine the number of winners for each prize level for a particular

game.

(k) Game number is the six digit consecutive number assigned by the central computer system designating a particular draw.

(l) Quick Draw wager options means that on a single play card a player can select a number of spots (numbers) from 1 to 10, with a wager of \$ 1, \$ 2, \$ 3, \$ 4, \$ 5 or \$ 10 per draw and for 1, 2, 3, 4, 5, 10 or 20 draws. A single play card total wager amount may not exceed \$ 100.00.

(m) Exchange ticket means a bet ticket issued if a winning ticket is redeemed prior to all drawings referred to thereon being completed.

(n) Net sales means the sum of the dollar purchases (after cancellation) of Quick Draw tickets eligible for a particular game draw.

(o) Prize pool means 60 percent of the net sales for a particular draw which is allocated for the purpose of paying prizes in that game.

(p) Director means the Director of the New York State Division of the Lottery or any other person to whom the Director's authority is lawfully delegated.

(q) Lottery rules and regulations means the rules and regulations currently in force as adopted by the division.

(r) Lottery or State Lottery means the New York State Division of the Lottery operated pursuant to Article 34 of the Tax Law.

(s) Ticket Cancellation means that a single draw Quick Draw ticket may be cancelled at the same terminal prior to the drawing only on the day of purchase. A multiple drawing ticket can be cancelled only prior to the Quick Draw ticket's first draw. Exchange tickets cannot be cancelled.

(t) Validation means the process of determining whether a bet ticket presented for prize redemption does or does not represent a winning bet.

(u) Spot means the number of numbers a player chooses to play in the Quick Draw game. For example, in a 10-spot game, the player chooses 10 numbers; in a 9-spot game, the player chooses 9 numbers; etc.

§ 2835.2 Payment of Prizes; Chances of Winning

(a) Prizes will be paid for all tickets on which the player selections match the winning numbers drawn for the draw played. The number of selections which must match the winning numbers drawn, the prizes won for a \$ 1 bet, and the chances of winning are shown in the charts below:

10-Spot Game Numbers Matched	Prize	Chance of Winning
10	\$ 100,000.00	1:8,911,711.18
9	\$ 5,000.00	1:163,381.37
8	\$ 300.00	1:7,384.47

7	\$ 45.00	1:620.68
6	\$ 10.00	1:87.11
5	\$ 2.00	1:19.44
0	\$ 5.00	1:21.84

Overall Chance of Winning
in 10 Spot Game 1:9.05

9-Spot Game

Numbers Matched	Prize	Chance of Winning
9	\$ 30,000.00	1:1,380,687.65
8	\$ 3,000.00	1:30,681.95
7	\$ 125.00	1:1,690.11
6	\$ 20.00	1:174.84
5	\$ 5.00	1:30.67
0	\$ 2.00	1:15.69

Overall Chance of Winning
in 9-Spot Game 1:9.74

8-Spot Game

Numbers Matched	Prize	Chance of Winning
8	\$ 10,000.00	1:230,114.61
7	\$ 550.00	1:6,232.27
6	\$ 75.00	1:422.53
5	\$ 6.00	1:54.64
0	\$ 2.00	1:11.33

Overall Chance of Winning
in 8-Spot Game 1:9.17

7-Spot Game

Numbers Matched	Prize	Chance of Winning
7	\$ 5,000.00	1:40,979.31
6	\$ 100.00	1:1,365.98
5	\$ 20.00	1:115.76
4	\$ 2.00	1:19.16
0	\$ 1.00	1:8.23

Overall Chance of Winning
in 7-Spot Game 1:5.46

6-Spot Game

Numbers Matched	Prize	Chance of Winning
6	\$ 1,000.00	1:7,752.84
5	\$ 55.00	1:323.04
4	\$ 6.00	1:35.04
3	\$ 1.00	1:7.70

Overall Chance of Winning
in 6-Spot Game 1:6.19

5-Spot Game

Numbers Matched	Prize	Chance of Winning
5	\$ 300.00	1:1,550.57
4	\$ 20.00	1:82.70

3	\$ 2.00	1:11.91
Overall Chance of Winning in 5-Spot Game		1:10.34
4-Spot Game		
Numbers Matched	Prize	Chance of Winning
4	\$ 55.00	1:326.44
3	\$ 5.00	1:23.12
2	\$ 1.00	1:4.70
Overall Chance of Winning in 4-Spot Game		1:3.86
3-Spot Game		
Numbers Matched	Prize	Chance of Winning
3	\$ 23.00	1:72.07
2	\$ 2.00	1:7.21
Overall Chance of Winning in 3-Spot Game		1:6.55
2-Spot Game		
Numbers Matched	Prize	Chance of Winning
2	\$ 10.00	1:16.63
Overall Chance of Winning in 2-Spot Game		1:16.63
1-Spot Game		
Numbers Matched	Prize	Chance of Winning
1	\$ 2.00	1:4.00
Overall Chance of Winning in 1-Spot Game		1:4.00

(b) For any draw in which there are more than 50 wagers of \$ 1 in which the player selections match 10 winning numbers, the total prize amount available for payment of prizes on such winning wagers shall be limited to \$ 5,000,000; and the amount of the prize payable to the holder of each bet ticket for such a wager shall be determined by dividing \$ 5,000,000 by the number of such winning wagers of \$ 1.

(c) All prizes must be claimed within one year of the draw date. Valid winning tickets valued at \$ 600 or less and presented for payment within 45 days of the drawing date may be presented to any on-line agent for payment, but only an on-line Quick Draw agent will be required to pay such prizes. Quick Draw tickets may be purchased only at an on-line Quick Draw agent location.

(d) The holder of a winning ticket may win only one prize per game in connection with the winning numbers drawn for a particular Quick Draw draw, but shall be entitled to the highest prize won by those numbers.

(e) A Quick Draw reserve will be created using the funds made available as a result of draws in which the total prizes paid are less than the 60 percent prize pool. This reserve will be used to pay prizes for any draw in which the prize liability exceeds 60 percent of net sales for that draw and may be used, at the option of the Director, to

increase any or all prize levels. Such increases may be permanent or for a specific period of time.

§ 2835.3 Withholding

Federal, State and local withholding taxes shall be withheld by the Lottery from prize payments in such amounts as may be required in accordance with the applicable provisions of law.

§ 2835.4 Procedures for claiming a prize

(a) Winning tickets valued at more than \$ 600 and winning tickets presented for payment more than 45 days after the draw date cannot be paid by an on-line agent. All prizes for which a valid claim form is submitted at an on-line agent location or by mail will be paid by mailed check. Prizes validly claimed at a Lottery office in person within one year after the drawing date shall be paid by check at the time the claim is made, unless the prize or a portion thereof is required by law to be applied to the satisfaction of an overdue support obligation owed by the claimant. Prizes cannot be claimed at a Lottery office until after the final draw date shown on the ticket unless an exchange ticket is issued.

(b) A bet ticket is deemed to be a bearer instrument. Neither the New York State Lottery nor its contractors or on-line agents shall be responsible for lost or stolen Quick Draw tickets, nor for alleged winning tickets thrown away by mistake. Neither the Lottery nor its contractors or on-line agents shall be responsible for Quick Draw bet tickets redeemed or cancelled in error from a player.

§ 2835.5 Disputes

In the event a dispute occurs between the Lottery and a player as to whether a ticket is a winning ticket, and if the claimed prize is not paid, the director may, at his discretion, refund any entry cost of the panel played by the player on that ticket. This section shall be the sole and exclusive remedy of the holder of the ticket.

§ 2835.6 Ticket sales

(a) No person shall sell a Quick Draw ticket at a price greater than that fixed by the Lottery.

(b) The price of each bet for the Quick Draw game is \$ 1, \$ 2, \$ 3, \$ 4, \$ 5, or \$ 10.

(c) Bets may be placed either for the next scheduled draw or for 2, 3, 4, 5, 10 or 20 consecutive draws, except that the maximum bet on any Quick Draw play card shall be \$ 100. No other bet durations are available.

(d) No person shall sell a Quick Draw ticket to a person under the age of 18 years. No person under the age of 21 years may purchase a Quick Draw ticket on the premises of a licensee who holds a license issued pursuant to the Alcoholic Beverage Control Law to sell alcoholic beverages for consumption on the premises.

(e) Quick Draw tickets shall be sold only on premises satisfying the following:

(1) If the premises are not used for the sale of alcoholic beverages for consumption on the premises, the agent must have certified in writing that the premises comprise an area greater than 2,500 square feet.

(2) Exceptions. The provisions of paragraphs (1) of this subdivision relating to 2,500 square feet shall not be applicable to premises used as either:

(A) a commercial bowling establishment; or

(B) a facility authorized under the Racing, Pari-Mutuel Wagering, and Breeding Law to accept pari-mutuel wagers.

§ 2835.7 Prize funds

(a) Sixty percent of sales receipts for each Quick Draw game draw shall be available for the payment of prizes.

(b) In the event of termination of the Quick Draw game for any cause, any prize monies remaining may be used for prizes in other lottery games at the discretion of the director.

§ 2835.8 Miscellaneous

(a) All number selections or other information appearing on a Quick Draw bet ticket shall be deemed to be made or given exclusively by the player. Where one person submits a prize claim as agent or nominee for another person or persons, the Lottery shall not be deemed to have any knowledge of such transaction and all dealings of the Lottery will be conducted solely with the bearer of the ticket.

(b) No claimant will be considered eligible to receive a prize without the presentation and surrender of a valid winning bet ticket.

(c) The New York State Lottery reserves the right to change the prize structure, frequency of draws, or the game itself.

(d) If, for any reason, an on-line bet ticket is not entirely legible or is misprinted or altered in any way, then the on-line computer record created at the time of sale will be the sole method of validation of the ticket. The Lottery reserves the right to refuse payment if all validation tests are not successfully completed.

(e) When any question shall arise as to the validity of a lottery drawing for any reason whatsoever, the director shall make the determination as to the validity of said draw on the basis of information at his disposal. His determination shall be a final determination.

(f) Neither the Lottery nor its contractors or agents shall be responsible for lost or stolen tickets or for tickets redeemed or cancelled in error.

(g) Lottery rules do not allow for the payment of prizes for previously redeemed or cancelled tickets. Accordingly, neither the Lottery nor its contractors or agents shall be responsible for bet tickets inadvertently returned to a player following redemption

or cancellation by an agent. In such cases, the on-line computer file will be the sole method for determining whether the ticket has been previously redeemed or cancelled.

**NEW YORK STATE DIVISION OF THE LOTTERY
NEW YORK CODE OF RULES AND REGULATIONS
PART 2836**

**2836-1 GENERAL PROVISIONS, CONSTRUCTION AND APPLICATION OF
RULES**

2836-1.1 Authority; purpose.

- (a) The rules and regulations governing video lottery gaming are issued under and pursuant to the authority of Part C, Chapter 383 of the Laws of 2001 as amended by Chapter 85 of the Laws of New York 2002, as amended.
- (b) The purpose of this part is to set forth the manner in which the division shall operate video lottery gaming.
- (c) This part pertains to video lottery gaming and is supplementary to those rules and regulations of general applicability promulgated by the division.

2836-1.2 Definitions.

Unless the context indicates otherwise, the following definitions are applicable throughout this Part.

- (a) Accounting department means a department established in the video lottery gaming agent's approved system of organization in accordance with these regulations.
- (b) Advertising or advertisement means any information, notice or communication by a video lottery gaming agent to the public concerning the video lottery gaming-related business of such agent through broadcasting, exterior signage, mail, publication, or any other means of dissemination. All advertising or advertisement(s) shall be specifically set forth and itemized in a marketing plan approved by the division as provided by these regulations.
- (c) Affiliate means a parent company or subordinate business entity of the video lottery gaming agent.

- (d) Agent compensation means the commission set forth in the act.
- (e) Applicant means any person applying for a video lottery gaming license required by this part.
- (f) Application means the video lottery gaming license application.
- (g) Assets means those fixtures, furniture, equipment, cash and other items owned and maintained by a video lottery gaming agent in connection with the operation of a video lottery gaming facility and or related amenity.
- (h) Authorized instrument means a cash equivalent, a video lottery gaming agent check, a video lottery gaming agent affiliate check, an annuity jackpot trust check or a replacement check.
- (i) Background investigation means the security, fitness and background investigation to be conducted of an applicant by the division and its representative for the purpose of determining suitability for licensure.
- (j) Banking institution means any "depository institution" as defined in 12 U.S.C. Section 461(b).
- (k) Bill acceptor means a device that accepts and reads currency or other approved items of value in order to accurately register player credits at a video lottery terminal.
- (l) Books and records means any book, record or document pertaining to, prepared in or generated by the operation of a video lottery gaming agent, including, but not limited to: all forms, reports, accounting records, ledgers, subsidiary records, computer generated data, internal audit records, correspondence and personnel records. This definition shall apply without regard to the medium through which the record is generated or maintained; for example, paper, magnetic media, encoded disk or other division-approved medium. All books and records are considered a public record as that term is

used in the state penal law and shall also be construed to mean a business record under such, unless exempt from disclosure pursuant to applicable federal or state law.

- (m) Business day means a calendar day other than Saturday, Sunday, or any day on which the division's main offices are closed because of Federal, State or local holiday, inclement weather, or like circumstance.
- (n) Business entity means a corporation, partnership, limited liability company, sole proprietorship, or other business form recognized by any state.
- (o) Business plan means a document containing information regarding video lottery gaming agent facility operations as may be required by the division.
- (p) Cage cashiers means the cashiers performing any of the functions in the cashiers' cage as set forth in these regulations.
- (q) Cage supervisor means any person designated as such and appropriately licensed as required by the video lottery gaming agent's jobs compendium which allows that person to supervise personnel and functions within the cashiers' cage.
- (r) Capital and maintenance expenditures means expense items related to the video lottery gaming facility incurred in connection with furniture, fixtures, equipment and facilities, and capitalized costs. Such term shall include: acquisition; replacement; repairs; refurbishment; renovation; improvements; maintenance, including public area housekeeping, and labor.
- (s) Cash means currency.
- (t) Cash equivalent means
 - (1) Certified check, cashiers' check, treasurer's check, recognized traveler's check or recognized money order that:
 - (i) Is made payable to the video lottery gaming agent where presented, a

holding company of the video lottery gaming agent, "bearer" or "cash";

(ii) Is dated, but not postdated; and

(iii) Does not contain any endorsement;

(2) Certified check, cashier's check, treasurer's check or recognized money order that:

(i) Is made payable to the presenting player;

(ii) Is endorsed in blank by the presenting player;

(iii) Is dated but not postdated; and

(iv) Does not contain any endorsement other than that of the presenting player.

(u) Central site means a location where the central video lottery communications control systems is located.

(v) Central system means central video lottery communications control system.

(w) Central system provider means a licensed vendor with whom the division has contracted for the purpose of providing and maintaining a central system and the related management facilities with respect to the operation of video lottery terminals.

(x) Central video lottery communications control system means the hardware, software and network components which link and support video lottery terminals to a central site.

(y) Certification or certificate of operations means authorization by the division to commence operation in accordance with its inspection and approval process of video lottery terminals, central system and related video lottery gaming software at a particular video lottery gaming facility.

(z) Chief financial officer means the senior executive of the video lottery gaming

agent with overall responsibility for its internal and accounting controls.

- (aa) Chief operating officer means the senior executive of the video lottery gaming agent exercising the overall management or authority over all video lottery gaming operations at a video lottery gaming facility.
- (bb) Commission means the vendor fee set forth in the act as a percentage of net terminal income paid to a video lottery gaming agent as compensation for operating the video lottery gaming facility.
- (cc) Compensation means direct or indirect payment for services performed including, but not limited to, salary, wages, bonuses, deferred payments, overtime and chattels.
- (dd) Complimentary service or complimentary item means a service or cash or non-cash item provided directly or indirectly by the video lottery gaming agent pursuant to a marketing plan approved by the division at no cost or at a reduced price to a player. Complimentary services or items are subject to the reimbursement rate provided by these regulations and guidance issued by the division from time to time.
- (ee) Construction contractor means any contractor or sub-contractor which is employed by a video lottery gaming agent to construct or assist in the construction of any portion of a video lottery gaming facility prior to the issuance of a certificate of operation by the division or employed after such issuance for more than thirty days, in accordance with these regulations. A contractor or sub-contractor employed by a video lottery gaming agent for less than thirty days shall be authorized as a temporary service provider as defined in subdivision (vvvvv) of this section.
- (ff) Controller means the person who is responsible to supervise the accounting department of a video lottery gaming agent and who shall report to an officer

as approved by the division.

- (gg) Count means the total currency or cash equivalent counted for a video lottery terminal, per day, or other period specified by the video lottery gaming agent.
- (hh) Count room means a room where cash is received and counted.
- (ii) Coupon is a non-cash item provided to a player as a complimentary or promotion item and can be used to play a video lottery terminal. All coupons are issued pursuant to the division's policy and procedure and must be described in an approved marketing plan.
- (jj) Currency means coin or paper money issued by the United States.
- (kk) Currency compartment means a compartment that maintains a separate lock with a separate key from the main cabinet area of the video lottery terminal and stores and secures the drop box.
- (ll) Department of State means the New York Department of State.
- (mm) Department of Taxation and Finance means the New York State Department of Taxation and Finance.
- (nn) Direct mail means a program set forth in a marketing plan approved by the division which informs player(s) and potential player(s), through direct contact, or promotions, of events and offerings at the video lottery gaming facility in an effort to increase player visitation to such facility and the usage of video lottery terminals.
- (oo) Drop means the total amount of the currency or cash equivalents removed from video lottery terminals.
- (pp) Drop box means a secure container in which shall be deposited all cash and vouchers inserted into the bill acceptor of a video lottery terminal.
- (qq) Electronic funds transfer, or "EFT", means the transfer of currency by a banking institution by electronic means.

- (rr) Eligible venue means a location at which the division is authorized by the act to license the operation of video lottery gaming.
- (ss) Entertainment costs means those costs identified in a marketing plan approved by the division and incurred by the video lottery gaming agent for entertainers, performers and events which are intended to increase player visitation to the video lottery gaming facility and the usage of the video lottery terminals.
- (tt) Equivalent provisions means lines of credit, parent company guarantees, or other arrangements approved in writing by the division through which funds can be accessed on a timely and as needed basis.
- (uu) Financial institution means any banking institution or investment bank authorized to do business in the state.
- (vv) Financial stability means the ability of a video lottery gaming agent or vendor to meet its financial obligations.
- (ww) Financial statement means any of the following:
 - (1) Balance sheet;
 - (2) Income statement;
 - (3) Profit and loss statement;
 - (4) Statement of cash flow;
 - (5) Sources and uses of funds statement.
- (xx) Gaming day means any calendar day during which video lottery gaming occurs at any licensed video lottery gaming facility.
- (yy) Gross sales means the total sales from video lottery terminals.
- (zz) Group sales means a program established by a video lottery gaming agent and described in a marketing plan approved by the division and which provides incentives for groups, organizations, clubs and similar entities to

- increase player visitation to the video lottery gaming facility and the usage of video lottery terminals.
- (aaa) Hold means the relationship of credits played to credits won for video lottery terminals.
 - (bbb) Holding company means a company whose sole function is to own and control other companies.
 - (ccc) Imprest basis means the basis on which cashiers' cage funds are replenished from time to time in exactly the amount of the net of expenditures made from the funds and amounts received.
 - (ddd) Incompatible function means a function, for accounting control purposes, that places any person or department in a position to both perpetrate and conceal errors or irregularities in the normal course of his or her duties. For example, anyone recording transactions and having access to assets ordinarily is in a position to perpetrate errors or irregularities.
 - (eee) Independent certified public accountant means a professional accountant licensed within the State suitably qualified and sufficiently independent to act as auditor of the video lottery gaming operations.
 - (fff) Independent gaming test laboratory means a laboratory, selected by the division, which shall be used by vendors of the division to ensure the central system, site controllers, terminals and associated equipment used in the conduct of video lottery gaming operate in the manner set forth by these regulations.
 - (ggg) Internal audit means employees of the video lottery gaming agent who perform an audit function of a video lottery gaming facility operation who are independent of the video lottery gaming facility department subject to such audit. Internal audit activities shall be conducted in a manner that permits

objective evaluation of areas examined and the results of internal audits are to be communicated to management.

- (hhh) Internal control system means internal procedures, administration, and accounting controls designed by the video lottery gaming agent for the purpose of exercising control over the video lottery gaming facility operation and its assets.
- (iii) Jackpot means the greatest amount of prize value to be awarded to a player for a given game.
- (jjj) Jackpot payout means a total payout or the portion of a jackpot paid by video lottery gaming agent personnel.
- (kkk) Intentionally omitted.
- (III) Key employee means a person required to obtain a video lottery gaming key employee license, including any natural person who will be employed by a video lottery gaming agent in a position that includes any responsibility or authority to develop or administer policy or long-range plans or to make discretionary decisions regarding video lottery gaming facility operations, regardless of job title, and who is not a principal of such agent.
- (mmm) License means the authorization granted by the division which permits an applicant to engage in video lottery gaming or video lottery gaming related activities.
- (nnn) License application means the instrument by which an applicant requests licensing for participation in video lottery gaming or video lottery gaming related activities.
- (ooo) Licensee means any person authorized by the division to participate in video lottery gaming or video lottery gaming related activities.
- (ppp) Main bank means the video lottery gaming agent's department that is

responsible for at least all of the following:

- (1) Providing working funds to all operational departments;
- (2) Maintaining custody of all inventory;
- (3) Cashiers;
- (4) Main bank vault or vaults;
- (5) Any other structure that houses representatives of value for which the main bank is accountable.

(qqq) Manufacturer means a firm engaged by the division to supply video lottery terminals as designated by the division.

(rrr) Material debt means a debt, whether in a single transaction or cumulative transactions during any twelve (12) month period, that may have a significant affect on the financial stability of a video lottery gaming agent, in the following amounts:

- (1) \$5,000,000.00 or more for a video lottery agent with 4,000 terminals or more; or
- (2) \$2,000,000.00 or more for a video lottery agent with between 1,500 and 3,999 terminals; or
- (3) \$1,000,000.00 or more for a video lottery agent with less than 1,500 terminals.

(sss) Marketing allowance means that percentage of net terminal income permitted by the act to be retained by the video lottery gaming agent to be used for the marketing, promotion and associated costs of its video lottery gaming operations, consistent with the customary manner of marketing and promoting comparable operations in the industry, subject to the overall supervision of the division.

(ttt) Marketing allowance account means the account established by each video lottery gaming agent for the deposit by the division of the applicable marketing allowance.

- (uuu) Marketing plan means the plan prepared by the video lottery gaming agent and submitted to the division for approval pursuant to these regulations which marketing plan describes the marketing and promotional activities for the video lottery gaming facility to be undertaken by the video lottery gaming agent.
- (vvv) Meter means an electronic (soft) or mechanical (hard) apparatus in a video lottery terminal used to register events or occurrences.
- (www) Natural person means any individual person.
- (xxx) Net proceeds means credits played less credits won, less the video lottery gaming agent's commission.
- (yyy) Net terminal income means the total amount of credits played less the total credits won.
- (zzz) Net win means net terminal income.
- (aaaa) Non-gaming employee means a licensed video lottery gaming employee who is not directly involved in video lottery gaming and does not serve a gaming function, including but not limited to, an employee involved in food and beverage, housekeeping, valet or facility maintenance services.
- (bbbb) On a daily basis means something which occurs or is performed each gaming day.
- (cccc) Operating expenses means the total cost of all selling, plus general and administrative expenses. These costs include, but are not limited to: operating supplies, labor costs, licensing fees, retail and entertainment costs, marketing, advertising, security and surveillance equipment upgrade costs, property operations, utility, and maintenance costs.
- (dddd) Parent company means a corporation that owns at least ninety (90%) percent of the outstanding shares of another corporation.

- (eeee) Player means a natural person who inserts currency, a voucher, or other item of value into the video lottery terminal to purchase video lottery gaming tickets.
- (ffff) Player rewards club means a program established by a video lottery gaming agent as described in a marketing plan approved by the division whereby player(s) can receive or accumulate points based on either (a) credits played at a video lottery terminal equated to a monetary value, or (b) purchases made at a video lottery gaming facility to the extent permissible under the program established by the video lottery gaming agent and approved by the division,; such points can then be redeemed for merchandise, entries into drawings, discounts on food and beverage and other complimentary items offered by the video lottery gaming agent.
- (gggg) Premises means the building and grounds occupied by a video lottery gaming facility which include that agent's video lottery gaming facility and related amenities. In addition to the video lottery gaming facility, "premises" includes facilities where food and drink are served, as well as those areas not normally open to the public, such as areas where records related to video lottery gaming operations are kept. "Premises" shall not include the racetrack or such areas where such video lottery gaming operations or facilities do not take place or exist, such as racetrack areas or fairgrounds which are wholly unrelated to video lottery gaming operations. The boundaries of the premises will be delineated on the floor plan, required by these regulations as part of the video lottery gaming agent's business plan. Areas which are not open to the public shall be deemed restricted areas.
- (hhhh) Primary and secondary jackpots means promotional prize pools offered at certain video lottery terminals that can be won in addition to the primary

prize.

(iii) Principal of a video lottery gaming agent means:

- (1) Each of its officers and directors;
- (2) Each of its principal management employees, including any chief executive officer, chief financial officer, chief operating officer, or general manager, including those employees acting in these capacities, director of security, and director of surveillance;
- (3) Each of its partners if a partnership or members if a limited liability company;
- (4) If a corporation, each of its shareholders who own or control more than ten (10) percent of the shares of the corporation if all warrants and/or options held by that shareholder were exercised; shareholders who are members of the same family will be considered as one shareholder for purposes of this section;
- (5) If a limited liability company, each of its members;
- (6) Each person other than a banking institution, investment broker, or mortgage broker licensed in this state who has provided more than ten (10) percent of the total financing of the video lottery gaming enterprise. The actual person or persons in control of the principal financing entity shall be required to be licensed;
- (7) Notwithstanding the foregoing, non-salaried members of boards of directors or their operational equivalent of non-profit or not-for-profit organizations and public benefit corporations may be excluded from certain portions of the licensing requirements set forth in these regulations at the discretion of the division. For purposes of this section only, "salary" shall mean monetary compensation for services rendered in

excess of a total of \$5,000 annually; and

(8) Any person or other entity to exert decision making control, financial or otherwise, over the video lottery gaming agent including any such person in a parent or holding company of such agent.

(jjjj) Prize means any credits won or value awarded as a result of the purchase and playing of a video lottery game.

(kkkk) Promotion means an event, invitation, or offering, including coupons, designed to showcase a specific feature, product or amenity of the video lottery gaming facility as described in a marketing plan approved by the division in an effort to encourage and increase player visitation to the video lottery gaming facility and usage of the video lottery terminals.

(llll) Public area means the areas in the video lottery gaming facility that are open to the public in accordance with the video lottery gaming agent's system of internal controls.

(mmmm) Rebate means cash or other item of value provided to a player, vendor or other third party by the video lottery gaming agent and which is strictly prohibited by these regulations. Rebate does not include complimentary services or complimentary items.

(nnnn) Replacement reserves means funds set aside that are restricted for the replacement of wear and tear items throughout the video lottery gaming facility.

(oooo) Restricted areas means areas of the video lottery gaming agent's premises which are not open to the public, including, but not limited to: the cashiers' cage, the count room, the surveillance room, the specific areas designated for the possession and maintenance of video lottery gaming equipment that

support the conduct of video lottery gaming in the video lottery gaming facility, any additional area that the video lottery gaming agent designates as restricted in its internal controls, and any other area specifically designated by the division as restricted.

(pppp) Security department member means any person employed by the video lottery gaming agent to provide physical security at a video lottery gaming facility.

(qqqq) Sensitive keys means keys that either the video lottery gaming facility supervisor or the division consider sensitive to the video lottery gaming operation and therefore require strict control over custody and issuance, in accordance with the video lottery gaming agent's system of internal controls and these regulations.

(rrrr) Shift means the regular, daily work period of a group of employees administering and supervising the operation of the video lottery gaming facility, working in relay with another such succeeding or preceding group of employees at specific times.

(ssss) Site controller means computer equipment located at a video lottery gaming facility used to link a number of video lottery terminals to the central system.

(tttt) State means the State of New York.

(uuuu) Subcontractor means any person who contracts with a licensed entity to provide good or services in furtherance of video lottery gaming.

(vvvv) Temporary badges mean an identification badge issued by a video lottery gaming agent to a temporary service provider.

(wwww) Temporary service provider means a vendor, its agents, servants and employees engaged by a video lottery gaming agent to perform temporary services at a video lottery gaming facility for no more than thirty (30) days

- in any twelve (12) month period.
- (xxxx) Terminal identification number means a unique number assigned to identify a single video lottery terminal in a video lottery gaming facility.
- (yyyy) Terminal light means the light located conspicuously on the uppermost surface of a video lottery terminal.
- (zzzz) Theoretical win means the intended hold percentage or win of an individual video lottery terminal as computed by reference to its payout schedule.
- (aaaaa) Theoretical win worksheet means a worksheet provided by a manufacturer for video lottery terminals which indicate the theoretical percentages that the video lottery terminal(s) should hold based on expected levels of credits played. The worksheet also indicates the number credits that may be played, the payout schedule and other information descriptive of the particular type of video lottery terminal required by the division.
- (bbbbb) United States means the United States of America.
- (cccc) Vendor means any person or business entity who contracts or subcontracts with the division or a video lottery gaming agent or other provider to supply goods or services related directly or indirectly to video lottery gaming.
- (dddd) Vendee means any person or business entity who contracts with a video lottery gaming agent to take away goods or services from a video lottery facility.
- (eeee) Video lottery game means any lottery game played on a video lottery terminal which consists of multiple players competing for a chance to win a randomly drawn prize.
- (ffff) Video lottery gaming agent means a person who has been licensed by the division to operate a video lottery gaming facility pursuant to the Act.
- (gggg) Video lottery gaming agent check means a check which is drawn by the

video lottery gaming agent upon their account at a banking institution and made payable to a person in payment of their voucher.

(hhhhh) Video lottery gaming bankroll means unrestricted cash maintained in the video lottery gaming premises, or in cash and cash equivalent bank accounts, that is readily available to meet prize payment obligations.

(iiii) Video lottery gaming count team means the personnel that perform the count of the video lottery terminal drop.

(jjjj) Video lottery gaming employee means a person required to hold a video lottery gaming employee license, including any person who will be employed by a video lottery gaming agent in any position and who is not a principal of a video lottery gaming agent or a video lottery gaming key employee.

(kkkk) Video lottery gaming facility means the physical area and amenities where licensed video lottery gaming and related activities are conducted.

(llll) Video lottery gaming facility department means the department of the video lottery gaming agent responsible for the operation of video lottery gaming.

(mmmm) Video lottery gaming facility manager means a person who has the ultimate responsibility to manage, direct, or administer the conduct of the video lottery gaming conducted within a video lottery gaming agent's facility.

(nnnn) Video lottery gaming facility operation means the operation of a video lottery gaming facility including, but not limited to, video lottery gaming, the purveying of food, beverages, retail goods and services, and transportation.

(oooo) Video lottery gaming floor means the area of the video lottery gaming facility where video lottery gaming is conducted.

(pppp) Video lottery gaming supervisor means a person employed in the operation of a video lottery gaming facility in a supervisory capacity or empowered to make discretionary decisions to conduct video lottery gaming

operations and perform certain functions, including but not limited to, video lottery gaming facility shift manager, the Assistant Gaming Facility Manager and the Gaming Facility Manager.

(qqqqq) Video lottery gaming surveillance room means a room or rooms at the video lottery gaming facility operated and staffed by video lottery gaming agent's employees for monitoring and recording video lottery gaming operations. Entrance to such room shall not be adjacent to, or visible from, any public area.

(rrrrr) Video lottery gaming system means a system that consists of video lottery terminals, connected to a central system which permit players to purchase video lottery gaming tickets.

(sssss) Video lottery gaming ticket means an electronic instrument produced by a video lottery terminal or video lottery gaming system that represents the outcome of a particular video lottery game.

(ttttt) Video lottery terminal (may be referred to as "VLT") means a video display terminal in which currency or credits are deposited and a selection is made by the player in order to purchase video lottery gaming tickets. A terminal shall be considered a video lottery terminal notwithstanding the use of an electronic credit system making the deposit of bills unnecessary.

(uuuuu) Voucher means an instrument of value generated by a video lottery terminal representing a monetary amount and/or play value owed to a customer at a specific video lottery terminal based on video lottery gaming winnings and/or amounts not wagered.

(vvvvv) Wager means an item that is a division approved representative of value utilized to purchase a video lottery gaming ticket at a video lottery terminal.

2836-1.3 Construction and Amendments.

- (a) These regulations shall be liberally construed in accordance with generally accepted principles of statutory construction, including those set forth in the State General Construction Law to permit the division to effectively carry out its respective statutory functions.
- (b) Nothing contained in these regulations shall be so construed as to conflict with any provision of the act or the law.
- (c) In special cases and for good cause shown, the division may permit deviations from these regulations. To request relief from these regulations, written application should be submitted to the director, setting forth the name, address and telephone number of the requester, the license number, if applicable, the details of the request, including citation to the regulation in question, and the basis for a claim of good cause. Under no circumstances shall the request be granted if the director determines that granting the request would adversely impact the health, safety, or welfare of the public, or that it would undermine the integrity of or public confidence in video lottery gaming.
- (d) These regulations may be amended by the division from time to time in accordance with the provisions of the New York State Administrative Procedure Act.
- (e) Whenever any provision of these regulations requires that an act or event occur on a specified day or date, and such day or date falls upon a Saturday, Sunday or legal holiday, such provision shall be construed to refer to the next business day immediately succeeding such day or date.
- (f) This part is intended to regulate the operation of video lottery gaming by the division and to be supplementary to all other regulations promulgated by the

division for the operation of its games. To the extent there is a conflict between this Part and other regulations promulgated by the division, this Part shall prevail.

2836-1.4 Words and terms; tense and number.

In construing the provisions of these regulations, except when otherwise plainly declared or clearly apparent from the context:

- (a) Words in the present tense shall include the future tense.
- (b) Words in the singular shall include the plural and the plural shall include the singular.

2836-1.5 Severability and preemption.

- (a) If any clause, sentence, section, subsection, paragraph, subparagraph, chapter or other portion of these regulations or the application thereof to any person or circumstance shall be held to be invalid, such holding shall not affect, impair or invalidate the remainder of these regulations or the application of such portion held invalid to any other person or circumstances, but shall be confined in its operation to the clause, sentence, section, subsection, paragraph, subparagraph, chapter or other portion thereof directly involved in such holding or to the person or circumstance therein involved.
- (b) Notwithstanding the provisions of any other law to the contrary, no local government unit of this State may enact or enforce any ordinance or resolution conflicting with any provision of the law or of these regulations or with any policy of this State expressed or implied herein, whether by exclusion or inclusion. The division shall have exclusive jurisdiction over all matters delegated to it or within the scope of its powers under the provisions of the law and these regulations.

2836-1.6 Practice where regulations do not govern.

In any matter not governed by these regulations, the division shall exercise its discretion so as to carry out the purposes of the act.

2836-1.7 Applicability of regulations to non-corporate entities.

For purposes of these regulations, non-corporate entities shall, to the extent possible, comply with all relevant requirements applicable to corporate entities.

2836-1.8 Powers reserved.

All powers not specifically defined in this Part are reserved to the division under the laws creating the division and specifying its powers and duties.

2836-2 INFORMATION AND FILINGS

2836-2.1 Communications; notices.

(a) Except as otherwise provided by these regulations, all papers, process or correspondence relating to the division should be addressed to or served upon the division at its principal office.

(b) All such papers, process or correspondence shall be deemed to have been received or served when delivered to the principal office of the division.

(c) Except as otherwise specifically provided by the act or these regulations, notices from the division will be sent to an applicant or licensee by either ordinary mail or certified mail to the address shown in the most recent application or change of address notice received from such person. Notices shall be deemed to have been served upon their deposit, postage prepaid, in the United States mail, and the time specified in any such notice shall commence to run from that date.

(d) Any applicant or licensee who desires to have notices mailed to an address other than that specified in the application shall file with the division a specific request for that purpose, and notices will, in such case, be sent to the applicant or

licensee at such address.

- (e) An applicant or licensee will be addressed under the name and style designated in the application, and separate notices will not be sent to individuals named in such application unless a specific request for that purpose is filed with the division. In the absence of such a specific request, a notice addressed under the name or style designated in the application shall be deemed to be notice to all individuals named in such application. Applicants and licensees shall immediately notify the division of any change of address, and shall expressly request that all notices be sent to the new address.
- (f) Whenever possible, except as otherwise provided in these regulations, all written communication and documentation submitted to the division shall be by electronic delivery.

2836-2.2 Retention, storage and destruction of books, records and documents by video gaming agents.

- (a) All original books and records pertaining to the video lottery gaming agent's operations shall be:
 - (1) Prepared and maintained in a complete, accurate and legible form;
 - (2) Retained on the site of the video lottery gaming facility or at another secure location approved in accordance with subsection (d) of this part;
 - (3) Retained for the time period specified in subsection (c) of this part;
 - (4) Held available for inspection by the division and its designee during normal business hours;
 - (5) Organized and indexed in such a manner so as to provide immediate accessibility to the division.
- (b) All original books, records and documents shall be retained by any video lottery gaming agent in accordance with policies issued by the division from

time to time. Notwithstanding such policies, the following original books, records and documents shall be retained indefinitely unless destruction is requested by a video lottery gaming agent and approved by the division in writing:

- (1) Corporate records;
 - (2) Records of corporate investigations and due diligence procedures;
 - (3) Current video lottery gaming employee personnel files; and
 - (4) A record of any original book, record or document destroyed, identifying the particular book, record or document, the period of retention and the date of destruction.
- (c) An off-site storage facility for the books, records and documents required to be retained by a video gaming agent pursuant to this part may be approved by the division upon receipt of a written request from a video gaming agent. Such request shall include, without limitation, the following information:
- (1) A detailed description of the proposed off-site facility, including security and fire safety systems, and;
 - (2) The procedures pursuant to which the division will be able to gain access to the original books, records and documents retained at the off-site facility.

A video lottery gaming agent may request division approval of an electronic or other suitable media system for the copying and storage of original books, records and documents. The use of such multi-media systems by a video gaming agent shall be pursuant to policies issued by the division from time to time.

- (d) (1) Notwithstanding any policy, statute, rule or regulation to the contrary, video lottery gaming agent shall notify the division in writing at least fifteen

(15) days prior to the scheduled destruction of any original book, record or document. Any such notice of destruction shall list each type of book, record and document scheduled for destruction, including a description sufficient to identify the books, records and documents included; the retention period; and the date of destruction.

(2) The division may object to the destruction of any original book, record or document by notifying the video lottery gaming agent in writing within fifteen (15) days of the receipt of any notice of destruction issued by the division by a video lottery gaming agent. Upon receipt of an objection to any notice of destruction, such original book, record or document may thereafter be destroyed by the video lottery gaming agent only upon the consent of the division. The destruction of any book, record or document by a video gaming agent without the consent of the division shall be a violation of these regulations and will be treated as the destruction of a public record under the Penal Law.

(3) The video lottery gaming agent may utilize the services of a division-approved disposal company for the destruction of any books, records or documents. Any cash complimentary coupons to be destroyed by a disposal company shall first be canceled with a void stamp, hole punch or similar device, or must contain a clearly marked expiration date which has expired, prior to turning possession of such coupons over to the disposal company.

(e) Nothing herein shall be construed as relieving a video lottery gaming agent from meeting any obligation to prepare or maintain any book, record or document required by any other Federal, state or local governmental body, authority or agency.

**2836-3 GENERAL PROVISIONS REGARDING LICENSING AND
REGISTRATION**

2836-3.1 General.

- (a) Every applicant and licensee shall produce such information, documentation and assurances as may be required by the division to establish, by clear and convincing evidence, his or her suitability for licensure in accordance with these regulations. The refusal by any applicant or licensee to comply with a request by the division for any such information, documentation or assurances shall be a basis for denial, revocation or disqualification of the applicant or licensee.
- (b) Each licensee under these regulations shall have a continuing obligation, as set forth in these regulations: (1) to ensure that such information, documentation and assurances submitted to the division is current; and; (2) to ensure that such information, documentation and assurances, in light of the circumstances in which they were made and submitted, shall not be misleading. Each licensee shall submit such additional information, documentation and assurances as may be necessary to meet such obligations.
- (c) (1) It shall be the affirmative duty of all licensed personnel to report:
 - (i) violations of law and any instances of non-compliance with these regulations; or
 - (ii) regulatory or criminal violations by such licensees in any jurisdiction outside the state in which they are licensed, to the division and its authorized representative. Licensed entities agree that they shall not apply any sanction, penalty, or job termination against any employee in retaliation for that employee's reporting of violation(s) or cooperation with

the division or its authorized representative in any investigation or other proceeding.

(2) If it is determined after investigation that any licensed entity or person has violated these regulations, the division will impose the appropriate remedy including, but not limited to, any of the following:

- (i) Permit the reinstatement of the employee to a former position;
- (ii) Suspension and/or revocation of the license of the entity or person(s).

2836-3.2 Identification.

- (a) Every natural person applying for a license pursuant to these regulations shall establish his or her identity to the satisfaction of the division pursuant to the requirements of the license application.
- (b) Any natural person may request that the division change the name designated on his or her application or license by establishing appropriate identity information as required by the division including, without limitation, a certificate of marriage, a certified copy of a divorce decree or other appropriate court order.

2836-3.3 Fingerprinting.

- (a) Each applicant or licensee, including each of the video lottery gaming agent, video lottery gaming agent principals, vendor and vendor principals, vendee and vendee principals, if applicable, and key and other employees, shall, at the time of application and upon renewal, be fingerprinted under the supervision of the division or a duly authorized representative approved by the division. The division may, for good cause shown, permit an applicant or licensee to alternatively submit sets of classifiable fingerprints on fingerprint impression cards provided by the division.
- (b) Nothing in this section shall relieve a person who submits fingerprint sets

pursuant to subsection (a) of this part above from the continuing duty to disclose any criminal arrests as required by these regulations.

- (c) Each video lottery gaming agent shall remit to the division the actual costs of reviewing and fingerprinting such agent's principals, employees and vendors, if applicable.

2836-3.4 Photographing.

Each applicant or licensee shall submit with their license application a color photograph in the format required by the license application and which was taken within six (6) months of the date the application is submitted to the division.

2836-3.5 Handwriting exemplars.

Each applicant or licensee shall supply handwriting exemplar(s) in the form and manner required by the license application.

2836-3.6 Minimum employee age.

No natural person under the age of eighteen (18) years shall be eligible to receive a license from the division as a video lottery gaming key employee, video lottery gaming employee or principal of a vendor or be authorized as a temporary service provider.

2836-3.7 Eligibility to work in the United States.

No natural person shall be employed as a video lottery gaming agent unless such person is a citizen of the United States or is otherwise eligible to work in the United States.

2836-3.8 False and misleading information.

The division may deny a license to any applicant who:

- (1) supplies information to the division which is untrue or misleading as to a material fact; or

- (2) fails to submit any statement or information which would make any statement made in the application, in light of the circumstances in which they were made, not misleading.

2836-3.9 Filing.

No application for a license shall be deemed filed with the division under these regulations until:

- (a) All papers presented conform to all requirements relating to format, signature, oath or affirmation, attorney certification (if required) and copies;
- (b) All appropriate application, registration, business disclosure and personal history disclosure forms have been properly completed and presented;
- (c) All required consents, waivers, fingerprint impressions, photographs and handwriting exemplars have been properly presented;
- (d) All other information, documentation, assurances and other materials required or requested at that preliminary stage pertaining to qualifications have been properly presented; and
- (e) All required fees have been properly paid and all required surety has been properly furnished.

2836-3.10 Processing.

The division will process only complete applications. The division will notify the video lottery gaming agent's human resource department when an application has been accepted as complete. The processing of any application shall not constitute the division's concurrence that the requirements of the act and these regulations have been satisfied.

2836-3.11 Amendment.

It shall be the continuing duty of each applicant or licensee to promptly file with the division a written amendment to the application explaining any new or changed facts

or circumstances whenever any material or significant new or changed facts or circumstances occur with respect to any matter set forth in the application or other papers relating thereto. Any applicant or licensee may be permitted by the division to file any other amendment to his or her application at any time prior to final action thereon by the division. The failure of an applicant or licensee to comply with this part shall be grounds for rejection of the application or for suspension or revocation of a license.

2836-3.12 Issuance of a license.

- (a) The division shall notify the applicant or the human resource department of the video lottery gaming agent in writing when a license is granted.
- (b) No applicant shall commence a licensed activity prior to the issuance of a license.
- (c) The division, may issue a temporary license to an applicant pending completion of an initial application review process. Any such temporary license may be issued only if the applicant:
 - (1) has filed a complete application with the division;
 - (2) the completed application, on its face, discloses no grounds from which it may be immediately ascertained by the division that there are reasonable grounds to deny the application; and
 - (3) the division receives and reviews an acceptable fingerprint report from the New York State Division of Criminal Justice Services and Federal Bureau of Investigation.

2836-3.13 Withdrawal.

- (a) Prior to a final action by the division on an application, regardless of whether a temporary license has been issued, any applicant may withdraw an application filed with the division by filing a written notice of such withdrawal.

Upon the receipt of such notice, the division will cease processing such application, but shall retain such application and materials in accordance with applicable law.

- (b) The division may refrain from processing any application submitted by any applicant which has previously withdrawn an application for a period of one (1) year from the date of such withdrawal.
- (c) No fee or other payment relating to any application shall become refundable by reason of withdrawal of the application unless otherwise determined by the division for good cause shown.

2836-3.14 Denial of a video lottery gaming license.

- (a) To the extent permitted by law, the division may deny a video lottery gaming license to an applicant who has been convicted of:
 - (1) A felony offense, as defined in penal law section 10.00(5), or an equivalent offense committed in another jurisdiction;
 - (2) A misdemeanor related to gambling, gaming, bribery, fraud, or any other offense prejudicial to public confidence in the state lottery;
- (b) The division may deny a video lottery gaming license to an applicant who has otherwise been determined to be a person whose prior activities, criminal record, if any, or reputation, habits and associations pose a threat to the effective regulation of video lottery gaming in this state; or if the granting of such license to the applicant would create, or enhance, the chances of unfair or illegal practices, methods, and activities in the conduct of the video lottery gaming under the act; or if such applicant has failed to provide any information reasonably required by the division to investigate the applicant for a license or to reveal any fact material to such application, or has furnished any information which is untrue or misleading in connection with

- such application, or fails to submit such information which, if submitted, would make the statements in any application, in light of the circumstances in which they were made, not misleading.
- (c) The division may deny a video lottery gaming license to an applicant who fails to provide such information, documentation and assurances required by the act or these regulations, or as requested by the division, or who fails to reveal any fact material to suitability, or who supplies information that is untrue or misleading as to a material fact pertaining to licensing suitability criteria;
 - (d) The division may deny a video lottery gaming license to an applicant who fails after due inquiry to demonstrate financial stability or who is obligated for past-due support which is owed to persons or entities entitled to enforce an order of support with respect to persons receiving services pursuant to Title 6-A of Article 3 of the state Social Services Law or any final order, decree or judgment in a matrimonial action or family court proceeding, or any foreign support order, decree or judgment which is registered pursuant to Section 37-A of the Domestic Relations Law, which requires the payment of alimony, maintenance, support or child support.
 - (e) The division may deny a video lottery gaming license to an applicant upon determination that the applicant has engaged in fraud, deceit, misrepresentation or conduct prejudicial to public confidence in the state lottery;
 - (f) Notwithstanding the provisions of this section, an applicant who has been convicted of any criminal offense may receive a video lottery gaming license at the discretion of the division. In determining whether the applicant may receive such license, the division shall consider the following factors:
 - (1) The nature and duties of the position or type of license for which the

applicant has applied;

- (2) The nature and seriousness of the offense or conduct;
- (3) The circumstances under which the offense or conduct occurred;
- (4) The date of the offense or conduct;
- (5) The age of the applicant when the offense or conduct was committed;
- (6) Whether the offense or conduct was an isolated or repeated incident;
- (7) Any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of persons who have or have had the applicant under their supervision.

2836-3.15 Application and employment after denial or revocation.

- (a) Any natural person whose application for a license is denied, or whose license is suspended or revoked by reason of a failure to satisfy the affirmative qualification criteria required by these regulations, or due to a finding by the division that such person is disqualified, or both, may re-apply for such license at any time.
- (b) Any natural person whose license application was denied, or whose license was suspended or revoked by the division on the basis of any of the statutory or regulatory provisions in paragraphs (1) through (4) of this subdivision (b) below, may reapply for a license upon satisfaction of the relevant requirements specified below. If the denial, suspension or revocation is based upon two (2) or more of such regulatory provisions, the division shall permit reapplication only upon compliance with the requirements of this subdivision as to each such provision. Any person seeking to reapply pursuant to this

subdivision shall file a certified petition stating with particularity how the specified requirements have been satisfied.

- (1) Failure to demonstrate financial stability: Reapplication is permitted upon achieving financial stability.
 - (2) Failure to satisfy the age requirement: Reapplication is permitted upon attaining the requisite age or upon a division finding that such age will be attained before the processing and approval of said reapplication has been completed.
 - (3) Pending disposition of a charge of a criminal offense if the Lottery has determined to deny a license application or suspend or revoke a license while such charge is pending: Reapplication is permitted upon disposition of the pending charge.
 - (4) Any statutory or regulatory provision which is subsequently repealed or modified: Reapplication is permitted 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 application.
- (c) Except as otherwise set forth in these regulations, any person whose application has been denied or whose license has been revoked may reapply upon submission of sufficient evidence demonstrating that the factual circumstances upon which the denial was based have been cured to the satisfaction of the division.
- (d) Any person whose license has been revoked may reapply upon submission of sufficient evidence demonstrating that the factual circumstances upon which the denial was based have been cured.

[2836-3.16 Repealed]

2836-3.17 Assignability.

No license issued pursuant to these regulations is assignable by the licensee to any other person.

2836-3.18 Temporary service providers; badging.

- (a) The video lottery gaming agent may issue temporary badges to any natural person performing temporary services at a video lottery gaming facility.
- (b) Temporary badges shall: (1) remain the property of the video lottery gaming agent; (2) be distributed to the temporary service provider upon daily arrival at the video lottery gaming facility; and (3) be returned daily by such temporary service provider to such agent at the close of the temporary service provider's work shift.
- (c) Any licensed entity needing to contract for or employ temporary personnel shall provide to the division a completed Temporary Service Provider Identification Number Request Form, no later than twenty-four (24) hours prior to arrival of the temporary service provider at the facility. The failure to file such request form shall be a violation of the entity's license, the act and these regulations.
- (d) The video lottery gaming agent may issue visitor badges to persons performing services for a period not greater than one business day provided that such visitor is escorted by a licensed employee at all times. If such visitor requires access to restricted areas, the visitor must be accompanied by a licensed key employee, unless otherwise approved by the division.

2836-3.19 Application to change video lottery gaming license.

A video lottery gaming licensee may apply to change the status of his or her current

license by filing an application in a form prescribed by the division.

2836-3.20 Restriction on employment of a former surveillance department employee.

No former video lottery gaming agent surveillance department employee shall accept employment in another capacity for the video lottery gaming agent within the same video lottery gaming facility in which such surveillance department employee was previously employed or within any other video lottery gaming facility whose surveillance department is under the operational control of the same person who controlled the surveillance department in which the surveillance department employee had been previously employed, unless one (1) year has passed since the former surveillance department employee worked in the surveillance department.

2836-4 VIDEO LOTTERY GAMING AGENTS

2836-4.1 Entities permitted to obtain a video lottery gaming agent license.

Unless otherwise permitted by law, only racetracks authorized by Article 34 of the Tax Law to operate a video lottery gaming facility may apply for and obtain a video lottery gaming agent license.

2836-4.2 Video lottery gaming agent and principal application and disclosure form.

- (a) Each owner of a video lottery gaming facility is required to be licensed by the division as a video lottery gaming agent. A video lottery gaming agent application and disclosure form shall be filed with the division for each of the following:
 - (1) The video lottery gaming agent license applicant; and
 - (2) Each parent company or holding company of the applicant.
- (b) Each person who is a principal of a video lottery gaming agent or the operator of a video lottery gaming facility on behalf of such an agent is required to be licensed by the division. A video lottery gaming agent principal application

and disclosure form shall be filed with the division for each of the following:

- (1) each person required to be licensed as a principal of the applicant; and
 - (2) each person required to be licensed as a principal of a parent or holding company of such agent; and
 - (3) Where the video lottery gaming agent principal is other than a natural person, each person(s) exercising control as principals over the video lottery gaming agent principal applicant.
- (c) In addition to the information submitted on or required by the application or disclosure form, any applicant for a video lottery gaming agent or principal license shall submit the following additional documents, which shall be dated, signed and notarized by either the president, chief executive officer, member(s), any general partner(s), sole proprietor(s) or other authorized person:
- (1) A Statement of Truth;
 - (2) Release Authorizations as requested by the division directing all courts, probation departments, selective service boards, employers, educational institutions, financial and other institutions and all governmental agencies to release any and all information pertaining to the applicant as requested by the division; and
 - (3) An acknowledgment of receipt of notice regarding confidentiality, consent to search and non-refundability of filing fees, with a waiver of liability as to the state and its instrumentalities and agents, including the division, for any damages resulting to the video lottery gaming agents, its principals, servants, agents and employees, from any disclosure or publication of information acquired during the license or investigation process.
 - (4) Such other and further information and documentation as may be

required by the division to establish compliance with all relevant facilities requirements of the division including, without limitation, the following:

- (i) A certified copy of the applicant's license to engage in pari-mutual wagering activities issued by the New York State Racing and Wagering Board;
- (ii) A certified copy of the local law authorizing the applicant's participation in video lottery gaming, if applicable;
- (iii) A certified copy of the certificate of occupancy or a certificate of compliance issued by the appropriate governmental body demonstrating that the facility to be licensed is in compliance with all State and local fire and safety codes;
- (iv) Certified payroll records showing that all workers engaged or to be engaged in the construction, reconstruction, development, rehabilitation or maintenance of any area utilized or to be utilized for video lottery gaming have been paid prevailing wages in accordance with Articles 8 and 9 of the state Labor Law and regulations promulgated by the state Department of Labor to the extent provided in such articles;
- (v) A description of the proposed video lottery gaming facility site, including site plans, total acreage, total square footage, frontages and elevation;
- (vi) Certificates of insurance to comply with Section 2836-4.9;
- (vii) The construction program for the video gaming facility, including estimated construction time and anticipated date of opening; the status of all required governmental and regulatory approvals and any conditions thereto, including, but not limited to, the results of any

review pursuant to the New York State Environmental Quality Review Act and all necessary demolition and construction permits; the project budget; and the architect, general contractor, construction manager and primary subcontractors, environmental consultant and interior designer and proof of insurance of all phases of the construction process;

- (viii) Certified copies of any agreement(s) with the organization authorized to represent its horsemen; and;
- (ix) Any other information or documentation which the division may deem material to the licensing of the applicant, or of any person required to be licensed pursuant to the regulations of the division.

2836-4.3 General information requirements.

- (a) No video lottery gaming agent license shall be issued or renewed by the division unless the applicant, and each person required to be licensed as part of the application, provides all information, documentation and assurances required to establish its qualifications pursuant to these regulations.
- (b) A video lottery gaming agent license may be issued subject to such conditions, restrictions, limitations or covenants as the division, in its discretion, deems necessary.
- (c) Each video lottery gaming agent shall prohibit the possession, use or control of gambling paraphernalia used in the conduct or operation of unlawful gambling in the video lottery gaming facility.

2836-4.4 Duration of license and license conditions.

Any video lottery gaming agent license issued by the division, shall be valid for the effective period of the act, unless such license is suspended or revoked by the

division pursuant to these regulations or by reason of the video lottery gaming agent's failure to continue to own and/or operate the video lottery gaming facility.

2836-4.5 Bonding of video lottery gaming agents.

- (a) The division shall require a bond or other surety agreement, including but not limited to a letter of credit, issued by a surety company or banking institution authorized to transact business in the state and approved by the State Insurance Department or Banking Department as to solvency and responsibility, from any licensed video lottery gaming agent in such amount as the division may determine, so as to avoid monetary loss to the state because of the video lottery gaming agent's activities or those of a third party. Such bond or other surety agreement shall at a minimum cover sixty-five (65%) percent of the total of five (5) days of estimated average daily net win per the respective video lottery gaming facility. The figure for estimated net win will be established by the division for each video lottery gaming facility and may be adjusted from time to time thereafter by the division. The bond or other surety agreement shall name as beneficiaries the division and the state.
- (b) The division may seek additional surety or guarantee of financial security consistent with the purposes of these regulations or video lottery gaming law, as may be deemed appropriate.
- (c) The failure of the video lottery gaming agent to post such bond or surety agreement in the amount required by the division shall be deemed a violation of such video gaming agent's license.

2836-4.6 Indemnification and hold harmless.

As a condition to the issuance and acceptance of any video gaming agent license, each video lottery gaming agent shall agree, by separate agreement or otherwise,

to:

(1) indemnify and hold harmless the state, the division and any of its employees from any and all damages, claims for damages or suits that may arise or occur directly or indirectly as a result of any operation carried on, under and pursuant to said video lottery gaming agent license;

(2) Release the state, the division and any of its employees from any and all claims, damages and/or rights of action which shall accrue to the video lottery gaming agent or any of its employees that may arise or occur directly or indirectly as a result of any operation carried on, under or pursuant to said license; and

(3) At his or her own expense, shall defend any and all suits against the state which may be brought by third parties as a result of any operation carried on pursuant to or in accordance with the terms of such license.

2836-4.7 Relationship.

(a) Each video lottery gaming agent shall be considered an independent contractor and not an agent, servant or employee of the division or the state. Notwithstanding such status, each video gaming agent is a holder in trust of state moneys for the benefit of the state and until such moneys are deposited pursuant to video gaming procedures issued by the division, such moneys shall be considered held "in trust" for the benefit of the state and the division. With respect to all state moneys, the video lottery gaming agent irrevocably pledges, assigns and grants the division and the state a security interest in and control over all such moneys and any and all deposit accounts which such moneys may be deposited, including, without limitation, all interest, dividends, cash, instruments and other property held therein. Without limiting any of the foregoing, the video lottery gaming agent, as a condition

to its license and operation certificate, will consent to any action which the state and/or the division deems necessary to perfect the security interest described above.

- (b) Every employee of a video lottery gaming agent shall be employees of such video lottery gaming agent and not of the division or the state.

2836-4.8 Gaming Facility Insurance Requirements.

- (a) Prior to the commencement of video gaming operations, the video gaming agent shall file with the division, Certificates of Insurance evidencing compliance with all requirements contained in these regulations. Such certificates shall be of form and substance acceptable to the division.
- (b) Acceptance and/or approval by the division does not and shall not be construed to relieve the video gaming agent of any obligations, responsibilities or liabilities under these regulations.
- (c) All insurance required by these regulations shall be obtained at the sole cost and expense of the video gaming agent with insurance carriers acceptable to the division; shall be primary and non-contributing to any insurance or self insurance maintained by the division; shall be endorsed to provide written notice be given to the division at least thirty (30) days prior to the cancellation, non-renewal, or material alteration of such policies, and shall name The People of the State of New York, its officers, agents, and employees as additional insured. The additional insured requirement does not apply to Workers' Compensation or Disability coverage.
- (d) The video gaming agent shall be solely responsible for the payment of all deductibles and self-insured retentions to which such policies are subject.

Deductibles and self-insured retentions must be approved by the division. Such approval shall not be unreasonably withheld.

- (e) Each insurance carrier must be rated at least "A-" Class "VII" in the most recently published Best's Insurance Report. If, during the term of the policy, a carrier's rating falls below "A-" Class "VII", the insurance must be replaced no later than the renewal date of the policy with an insurer acceptable to the division and rated at least "A-" Class "VII" in the most recently published Best's Insurance Report.
- (f) The video gaming agent shall cause all insurance to be in full force and effect as of the commencement date of video gaming operations and to remain in full force and effect throughout the license term. The video gaming agent shall not take any action, or omit to take any action that would suspend or invalidate any of the required coverages during the period of time such coverages are required to be in effect.
- (g) Not less than thirty (30) days prior to the expiration date or renewal date, the video gaming agent shall supply the division updated replacement Certificates of Insurance, and amendatory endorsements.
- (h) The video gaming agent shall obtain and maintain in full force and effect, the following insurance with limits not less than those described below, or as required by law, whichever is greater (limits may be provided through a combination of primary and umbrella/excess policies):
 - (i) Commercial General Liability Insurance with a limit of not less than \$5,000,000 each occurrence. Such insurance shall cover liability arising from premises operations, independent contractors, broad form property damage, personal & advertising injury, cross liability coverage, liability assumed in a contract (including the tort liability of

another assumed in a contract) and explosion, collapse & underground coverage. If such insurance contains an aggregate limit, it shall apply separately on a per location basis.

- (ii) Workers' Compensation, Employers Liability, and Disability Benefits as required by New York State.
 - (iii) Commercial Business Automobile Liability Insurance with a limit of not less than \$1,000,000 each accident. Such insurance shall cover liability arising out of any automobile accident including owned and leased automobiles.
- (i) The video gaming agent shall cause to be included in each of its policies insuring against loss, damage or destruction by fire or other insured casualty, a waiver of the insurer's right of subrogation against the division, or, if such waiver is unobtainable, (i) an express agreement that such policy shall not be invalidated if the video gaming agent waives or has waived before the casualty, the right of recovery against the division or (ii) any other form of permission for the release of the division.

2836-5 FINANCIAL STABILITY OF VIDEO LOTTERY GAMING AGENTS

2836-5.1 Financial stability criteria.

- (a) Each video lottery gaming agent, and each of its principals, shall establish and maintain during the pendency of its video gaming agent license its financial stability to the satisfaction of division. The division may consider any relevant evidence of financial stability. A video lottery gaming agent shall be considered to be financially stable if it establishes by clear and convincing evidence that it meets each of the following standards:
- (1) Each video lottery gaming agent must assure the financial integrity of

video lottery gaming operations by the maintenance of a video lottery gaming bankroll, or equivalent provision(s), adequate to pay prizes to video lottery gaming patrons when due. A video lottery gaming agent shall be found to have established this standard if it maintains, on a daily basis, a video lottery gaming bankroll, or equivalent provisions, in an amount at least equal to the facility's immediate cash requirement exposure for player prizes. Prior to receiving a certificate of operation for the video lottery gaming facility, each video lottery gaming agent must submit to the division a calculation of their video lottery gaming bankroll to be maintained at the commencement of each gaming day. Such calculation shall be based upon prize valuation levels. The bankroll will be reviewed by the division, and shall guarantee that the vault funding by weekday is at least equal to two hundred (200%) percent of the projected average daily prize claims at the video lottery gaming facility. Each video lottery gaming agent must continually review and evaluate daily bankroll requirements and notify the division in writing if it requests to change the amount of the minimum bankroll. Such notification must be provided to the division at least ten (10) days prior to the implementation of the new funding level. Maintenance of a minimum bankroll is subject to audit or review by the division. Failure to maintain adequate funding levels consistent with this requirement will be a violation of the video lottery gaming agent's license.

- (2) Each video lottery gaming agent must be able to pay, as and when due, all local, state and federal taxes, including the tax on gross revenues imposed by the video lottery gaming law, and any costs

associated with the licensing process.

- (3) Video lottery gaming agents must maintain the video lottery gaming facilities and related amenities in good repair. Each video lottery gaming agent shall submit annually to the division for review, any changes or updates to capital reinvestment plan for the video lottery gaming facility together with the then effective capital reinvestment plan. The division shall review such changes and updates to insure that each video lottery gaming agent is investing portions of the agent commission and marketing allowance permitted by the act in the facilities infrastructure as is necessary to support viable and successful video lottery gaming in this state. Each capital reinvestment plan submitted shall be in such form as required by the division and shall discuss the improvements made to the facility since the submission of the last reinvestment plan. Video lottery gaming agents must budget for repair and replacement reserves to maintain the facilities unless otherwise prohibited by law. The division reserves the right to require agents to create and fund replacement reserves at such amounts determined by the division consistent with the requirements of the act.
- (4) Each video lottery gaming agent must be able to pay, exchange, refinance or extend debts, including long-term and short-term principal and interest and capital lease obligations, which will mature or otherwise come due and payable during the license term, or to otherwise manage such debts and any default with respect to such debts. Each video lottery gaming agent shall advise the division of its plans to meet this standard with respect to any material debt(s) coming due and payable within twelve (12) months after the end of

the license term.

- (5) No video lottery gaming agent shall consummate a material debt transaction without the prior written approval of the division.
 - (6) No video lottery gaming agent shall guarantee the debt of any person or business entity, whether by co-signature or otherwise, or assume the debt of any person or business entity; or enter into any agreement to place any encumbrance on of its' video lottery gaming facility to secure the debts of such video gaming agent, any person or business entity, without the prior written approval of the division.
- (b) In reviewing any transaction in connection with the financial stability of the video lottery gaming agent or any of its principals, the division shall consider whether the transaction deprives the agent or person of financial stability, taking into account the current or projected financial condition of the video lottery gaming agent and its affiliate, and the potential impact of any default on the agent or person.
 - (c) Any subsequent use of the proceeds of a financial transaction previously approved by the division pursuant to these regulations, including subsequent drawings under previously approved transactions, shall not require further division approval unless such use is inconsistent with the use approved by the division.
 - (d) The division may restrict or prohibit the transfer of cash to, or the assumption of liabilities on behalf of, an affiliate of the video gaming agent if, in the judgment of the division, such transfer or assumption would deprive the video lottery gaming agent of financial stability.

2836-5.2 Financial stability reporting requirements.

Each video lottery gaming agent and its principals shall be required to maintain accurate and complete accounting records pertaining to video lottery gaming operations at the video lottery facility or such location approved in writing by the division. Such records shall be maintained in accordance with generally accepted accounting principles. In connection with such records, each video lottery gaming agent shall report to the division the following:

- (1) On the fiscal year basis of the video lottery gaming agent, the video lottery gaming agent shall submit audited financial statements in accordance with these regulations within 120 days of such fiscal year end;
- (2) Video lottery gaming agents will submit standard financial reports required by these regulations; and
- (3) Such other information as the division shall deem necessary for a showing of financial stability for a particular video lottery gaming agent including, without limitation, quarterly submissions of financial information.

2836-5.3 Failure to demonstrate financial stability.

In the event a video lottery gaming agent, or any licensee under these regulations, fails to demonstrate financial stability as required by these regulations to the satisfaction of the division, the division may take such action as is necessary to fulfill the purposes of the act and to protect the public interest, including, but not limited to: issuing conditional or temporary licenses, approvals or determinations; establishing an appropriate cure period; imposing reporting requirements in excess of those otherwise mandated by these regulations; placing such restrictions on the transfer of cash or the assumption of liabilities as is necessary to insure future compliance with the financial stability standards; requiring the maintenance of reasonable reserves or the establishment of dedicated or trust accounts to insure

future compliance with the financial stability standards; requiring a special audit, with such audit plan to be approved by the division and conducted by an independent accounting firm at the expense of the video lottery gaming agent; charging interest as provided in these regulations on any outstanding amount of sales due the division; suspending, revoking or denying licensure; or such other action as the division determines appropriate in accordance with these regulations.

2836-6 VIDEO LOTTERY GAMING KEY EMPLOYEE AND EMPLOYEE LICENSING

2836-6.1 Persons required to obtain a video lottery gaming key employee license.

Any natural person who will be employed by a video lottery gaming agent in a position that includes any responsibility or authority to develop or administer policy or long-range plans or to make discretionary decisions regarding video lottery gaming facility operations, regardless of job title, and who is not a principal of such agent, shall be required to hold, prior to being involved in any video lottery gaming licensed activities, a current and valid video lottery gaming key employee license issued by the division or shall have filed a request for a temporary license under section 2836-3.12.

2836-6.2 Persons required to obtain a video lottery gaming employee license.

- (a) Any natural person who will be employed by a video lottery gaming agent in any position and who is not a principal of a video lottery gaming agent or a video lottery gaming key employee, shall be required to hold, prior to the commencement of such employment, a current and valid video lottery gaming employee license issued by the division.
- (b) Any person who holds a current and valid video lottery gaming key employee

license may perform the duties and responsibilities of any position that requires a video lottery gaming employee license.

- (c) Any person who is employed solely in the pari-mutuel racing business shall not be required to obtain a video lottery gaming employee license, unless such person enters video lottery gaming restricted areas in the course of his or her employment.

2836-6.3 Video lottery gaming key employee and video lottery gaming employee applications and disclosure forms.

- (a) The video lottery gaming key employee and video lottery gaming employee applications, personal history disclosure forms or principal disclosure forms shall be in a format prescribed by the division.
- (b) In addition to any information requested in the application, each applicant for a video lottery key employee and video lottery gaming employee license shall provide the division:
 - (1) The name, address, occupation and phone number of each person(s) who can attest to the applicant's character and reputation;
 - (2) A signed, dated and notarized certification of truth; and
 - (3) A signed, dated and notarized release authorization(s) which shall direct all courts, probation departments, selective service boards, employers, educational institutions, financial and other institutions and all governmental agencies to release any and all information pertaining to the applicant as requested by the division.

2836-6.4 Standard for issuance of video lottery gaming key employee and video lottery gaming employee licenses.

- (a) Each applicant for a video lottery gaming key employee and video lottery

gaming employee license must produce such information, documentation and assurances as requested by the division concerning the following qualification criteria:

- (1) Such information, documentation, releases and assurances as may be required to establish by clear and convincing evidence the financial stability, integrity and responsibility of the applicant, including but not limited to, bank references, business and personal income and disbursements schedules, tax returns and other reports filed with governmental agencies, and business and personal accounting and check records and ledgers. In addition, each applicant shall, in writing, authorize the examination of all bank accounts and records as may be deemed necessary.
- (2) Such information, documentation, releases and assurances as may be required to establish by clear and convincing evidence the applicant's good character, honesty and integrity. Such information shall include, without limitation, data pertaining to family, habits, character, reputation, criminal and arrest record, business activities, financial affairs, and business, professional and personal associates, covering at least the ten (10) year period immediately preceding the filing of the application. Each applicant shall notify the division of any civil judgments obtained against such applicant pertaining to antitrust or security regulation laws of the federal government, of this state or of any other state, jurisdiction, province or country.
- (3) Upon request of the division, the potential employee shall produce letters of reference from law enforcement agencies having jurisdiction in the applicant's place of residence and principal place of business, which letters of

reference shall indicate that such law enforcement agencies do not have any pertinent information concerning the applicant, or if such law enforcement agency does have information pertaining to the applicant, shall specify what that information is.

(4) If the applicant has been associated with gaming operations in any capacity in any jurisdiction which permits such activity, the applicant, when requested by the division, shall produce letters of reference from the gaming enforcement or control agency for such jurisdiction. Such letters of reference shall specify, without limitation, the experience of such gaming enforcement or control agency with the applicant, the applicant's associates, the applicant's participation in the gaming operations of such jurisdiction, and, to the extent permitted by applicable law, any enforcement action by such gaming enforcement or control agency against the applicant. The applicant shall separately authorize the division or its authorized representative to communicate with and examine appropriate files of any such gaming enforcement or control agency in any such jurisdiction.

2836-6.5 Duration of license, effective date.

Any video lottery gaming key employee or employee license shall be issued by the division and shall remain in force until suspended, revoked or terminated by the division in accordance with the provisions set forth in this part. Upon reasonable notice to existing licensees, the director may require renewal of licenses, establish probation, or set other conditions upon the license. A license fee may be established and required at the discretion of the director.

2836-7 [RESERVED]

2836-8 VIDEO LOTTERY GAMING VENDOR LICENSING

2836-8.1 Persons required to obtain a video lottery gaming vendor license.

- (a) Any vendor who offers goods or services, as defined in this part, which directly relate to a video lottery gaming activity at any video lottery gaming facility, including, without limitation, those who intend to manufacture, sell, distribute, maintain and repair video lottery gaming terminals and related equipment, or who intend to provide management services, or who intend to provide a central system for the operation of video lottery gaming within the state, together with such vendor's principal(s) and key employee(s), shall be required to be licensed in accordance with the provisions of these regulations prior to providing any such goods or services to the division or any video lottery gaming agent or at a video lottery gaming facility.
- (b) In addition to any vendor required to be licensed by this part, the division may require a license for any person or business entity, other than a banking or financial institution who has provided more than ten (10) percent of the total financing of the video lottery gaming enterprise, if the issuance of such license would be consistent with this part and consistent with the protection of video lottery gaming in the state.
- (c) The division may conduct background investigation(s) on any person or business entity performing services or providing goods for or at the video lottery gaming facility at anytime after the issuance of a temporary license to the video lottery gaming agent pursuant to these regulations. The video lottery gaming agent shall cooperate and cause such person(s) or business entities to cooperate in any such investigation(s). The failure of the video lottery gaming agent or such person(s) or business entities to cooperate with any division investigation shall be a violation of any license issued to the video lottery gaming agent, the act and these regulations.

2836-8.2 Standards for issuance of a video lottery gaming vendor license.

- (a) In order to be qualified to receive a video lottery gaming vendor license, each vendor and their principals and key employees, must qualify under the standards established by these regulations for the issuance of a video lottery gaming agent license. Licensure of any vendor may be denied to any applicant disqualified in accordance with the criteria established for qualification of a video lottery gaming agent; provided that no video lottery gaming vendor license shall be issued until proof of valid business registration with the Department of State and the Department of Taxation and Finance is submitted to the division.
- (b) A vendor licensed pursuant to these regulations shall require proof from all of its subcontractors they hold valid business registration with the Department of State and the Department of Taxation and Finance.
- (c) Notwithstanding any other section of these regulations, as a condition of any video lottery gaming vendor license, each video lottery gaming vendor shall comply with the requirements of the state Labor Law and the regulations promulgated hereunder, if applicable, to facilitate the training of persons in the repair and reconditioning of video lottery terminals.

2836-8.3 Vendor license application and disclosure form.

Each applicant for a video lottery gaming vendor license will be required to submit a vendor license application in such form prescribed by the division.

2836-9 PERSONNEL ASSIGNED TO THE OPERATION OF VIDEO LOTTERY GAMING FACILITIES

2836-9.1 Assigned personnel.

- (a) The video lottery gaming agent shall be required to employ the personnel herein described in the operation of the video lottery gaming facility

regardless of the position titles assigned to such personnel by such agent in the jobs compendium submitted to the division. Functions described in this part shall be performed only by persons holding the appropriate license required by the video lottery gaming agent's jobs compendium to perform such functions, or by persons holding the appropriate license required by such compendium to supervise persons performing such functions.

- (b) Each video lottery gaming agent shall at all times maintain a level of staffing that ensures the proper operation and effective supervision of all video lottery gaming in such agent's video lottery gaming facility.
- (c) The video lottery gaming agent shall be required to employ a video lottery gaming facility manager. The video lottery gaming facility manager shall be the executive assigned the responsibility and authority for the supervision and management of the overall operation of the video lottery gaming agent's gaming facility department including, without limitation, the hiring and terminating of all video lottery gaming facility personnel.
- (d) In the absence of the video lottery gaming facility manager, the video lottery gaming facility shall have an assistant video lottery gaming facility manager who is employed within the video lottery gaming facility department and shall be designated by the video lottery gaming agent as the person responsible for the overall operation of the video lottery gaming facility department and such person shall have the authority of a video lottery gaming facility manager.
- (e) Subject to prior division approval, in lieu of an assistant video lottery gaming facility manager, the video lottery gaming facility manager may designate any licensed video lottery gaming key employee as a "manager on duty" except that the director of surveillance and the director of security for the video lottery gaming facility are each prohibited from being so designated.

2836-9.2 Jobs compendium submission.

- (a) The video lottery gaming agent shall prepare and maintain a jobs compendium consistent with the requirements of this section detailing job descriptions and lines of authority for all personnel engaged in the operation of the video lottery gaming facility. Unless otherwise directed by the division, a jobs compendium shall be submitted for approval at least sixty (60) days prior to the projected date of the commencement of video lottery gaming operations. Upon receipt, the division shall review the jobs compendium and shall determine whether the job descriptions and tables of organization contained therein conform to the standards of this part. If the division finds insufficiencies, the division shall, in writing, specify the same to the video lottery gaming agent which shall make appropriate alterations. When the division determines the submission to be adequate with respect to these standards, it shall notify the video lottery gaming agent of such in writing. The video lottery gaming agent shall not commence gaming operations unless and until its jobs compendium is approved in writing by the division.
- (b) Each jobs compendium submitted by a video lottery gaming agent shall include the following sections, in the order listed:
- (1) An alphabetical table of contents, listing the position, title, job code and type of license (i.e., principal, key, etc.) for each job description included in subsection (b)(3) of this part below, and the page number on which the corresponding job description may be found;
 - (2) An organization chart for each department and division, including all positions regardless of whether the positions require an occupational license, and illustrating, by position title, direct and indirect lines of authority within the department or division. Each page of a table of organization shall specify

the following:

- (i) The date of its submission;
- (ii) The date of the previously submitted table of organization which it supersedes if any; and
- (iii) A unique title or other identifying designation for that table of organization.

(1) A description of each employee position which accurately corresponds to the position title as listed in the table of organization and in the alphabetical table of contents. Each position description shall be contained on a separate page, organized by departments or divisions, and shall include, at a minimum, the following:

- (i) Position title and corresponding department;
- (ii) Salary range;
- (iii) Job duties and responsibilities;
- (iv) Detailed descriptions of experience or educational requirements;
- (v) Projected number of employees in the position;
- (vi) The date of submission of each employee position job description and the date of any prior job description it supersedes;
- (vii) The date of submission and page number of each table of organization on which the employee position title is included; and
- (viii) The type of license (i.e., principal, key, etc.).

(b) Except as otherwise provided in subsection (d) of this part below, any amendment to a previously submitted jobs compendium, including any amendment to a table of organization, may be implemented by the video lottery gaming agent without the prior approval of the division, provided that:

(1) The amendment is immediately recorded in the jobs compendium maintained

- by the video lottery gaming agent on its premises; and
- (2) The amendment is submitted to the division by the end of the business day on the date of implementation, including at a minimum, the following:
- (i) A detailed cover letter listing by department each position title to which modifications have been made, a brief summary of each change, instructions regarding any changes in page numbers and the date of implementation; and
 - (ii) The proposed changes to the information required by subsection (b) above, including the corresponding job descriptions and tables of organization, contained on pages which may be used to substitute for those sections of the jobs compendium previously in writing by the division.
- (3) The video lottery gaming agent shall not be required to file amendments to job descriptions for positions which do not require an employee license. Non-licensed positions subsequently determined or required to be licensed shall be treated as an amendment pursuant to subsection (c) of this part above.
- (4) Except as otherwise required by these regulations, the video lottery gaming agent shall submit a complete and up-to-date jobs compendium in accordance with subsection (a) of this part above to the division eighteen (18) months after commencement of gaming and every two (2) years thereafter, unless otherwise directed by the division.
- (5) The video lottery gaming agent (or applicant) shall maintain on its premises a complete, updated copy of its jobs compendium which shall be made available for review upon the request of the division.
- (6) Whenever required by these regulations, the video lottery gaming agent shall file three (3) copies of a jobs compendium and three (3) copies of an

amendment to a jobs compendium with the division. Each copy shall be in a format prescribed in writing by the division, including a cover indicating the date of the submission and the label "Jobs Compendium Submission" or "Jobs Compendium Amendment" as appropriate.

(7) The video lottery gaming agent shall submit to the division a list of employees who have received annual compensation of \$100,000.00 or more, including salary, bonuses, incentives, profit sharing or any other compensation as indicated on the employees' annual Internal Revenue Service Form W-2. Such list shall be submitted to the division by March 31 for the preceding calendar year and shall include the following for each employee listed:

- (i) The name of the employee;
- (ii) The employee license number;
- (iii) The position of the employee and the corresponding job code for such position;
- (iv) The total amount of compensation received by the employee; and
- (v) Each form of compensation received, such as salary, bonuses, incentives or profit sharing, and the amount thereof.

(8) No provision of this section shall be construed so as to limit the video lottery gaming agent's discretion to utilize a particular job title for any position in its jobs compendium.

2836-10 INTERNAL CONTROLS GOVERNING THE OPERATION OF VIDEO LOTTERY GAMING.

2836-10.1 Video lottery gaming agent's organization.

- (a) Each video lottery gaming agent shall organize their video lottery gaming operation in such a manner that all financial records are separate and distinct from all financial records relative to their other business operations.
- (b) Each video lottery gaming agent's system of internal controls shall include tables of organization. Each video lottery gaming agent shall, except as otherwise provided in this section, tailor its organizational structure to meet the needs or policies of its particular management philosophy. The proposed organizational structure of each video lottery gaming agent shall be approved in writing by the division in the absence of a conflict between the organizational structure and the criteria listed below, which criteria are designed to maintain the integrity of video lottery gaming operations. Each video lottery gaming agent's tables of organization shall provide for:
 - (1) A system of personnel and chain of command which permits management and supervisory personnel to be held accountable for actions or omissions within their areas of responsibility;
 - (2) The segregation of incompatible functions so that no employee is in a position both to commit an error or to perpetrate a fraud and to conceal the error or fraud in the normal course of his or her duties;
 - (3) Primary and secondary supervisory positions which permit the authorization or supervision of necessary transactions at all relevant times; and
 - (4) Areas of responsibility which are not so extensive as to be impractical for one person to monitor.
- (c) In addition to satisfying the requirements of (b) above, each video lottery gaming agent's system of internal controls shall include, at a minimum, the following departments and supervisory positions. Each of the departments and supervisors

required or authorized by this section (a "mandatory" department or supervisor) shall cooperate with, yet perform independently of, all other mandatory departments and supervisors of the video lottery gaming agent. Notwithstanding the foregoing, a department or supervisor of a video lottery gaming agent that is not required or authorized by this section may operate under or in conjunction with a mandatory department or supervisor unless the division subsequently disapproves such operation as being inconsistent with the standards in (b) above.

Mandatory departments and supervisory positions are as follows:

- (1) The director of surveillance shall supervise the surveillance department. The director of surveillance shall report to the facility manager of the video lottery gaming facility, the chief operating officer, or another officer as determined by the agent and approved by the division and be free to make reports directly to the video lottery gaming agent's principals, members and board of directors. The surveillance department shall be responsible for, without limitation, the following:
 - (i) The clandestine surveillance of the operation and conduct of the video lottery gaming and bill acceptors;
 - (ii) The clandestine surveillance of the operation of the cashiers' cage and satellite cages;
 - (iii) The audio-video recording of activities in the count rooms;
 - (iv) The detection of cheating, theft, embezzlement, and other illegal activities in the video lottery gaming facility, count rooms, and cashiers' cages;
 - (v) The detection of the presence in the video lottery gaming facility of any person who is excluded or ejected;
 - (vi) The video recording of illegal and unusual activities monitored;

- (vii) Providing mandatory immediate notification to appropriate supervisors and the division and its designee upon detecting, and also upon commencing video or audio recording of, any person who is engaging in or attempting to engage in, or who is reasonably suspected of cheating, theft, embezzlement, or other illegal activities;
 - (viii) Providing mandatory immediate notification to appropriate supervisors and the division and its designee upon detecting, and also upon commencing video or audio recording of, any person who is excluded or ejected;
 - (ix) Pursuant to and in addition to (vii) and (viii) above, a daily report of these events shall be transmitted to the division or its designee.
- (2) A video lottery games department supervised by a person referred to herein as a video lottery gaming manager. The video lottery games department shall be responsible for the operation of the video lottery gaming facility, including the conduct of all authorized games and bill acceptors in the facility.
- (3) A security department is supervised by a person referred to herein as a director of security. The security department shall be responsible for the overall security of the video lottery gaming facility including, without limitation, the following:
- (i) The physical safety of patrons in the video lottery gaming facility;
 - (ii) The physical safety of personnel employed at the video lottery gaming facility;
 - (iii) The physical safeguarding of assets transported to and from the video lottery gaming facility and cashiers' cage departments;
 - (iv) The protection of the patrons' and the video lottery gaming facility's property from illegal activity;

- (v) The detainment of each individual as to whom there is probable cause to believe that he or she has engaged in or is engaging in conduct that violates the Act or these regulations inclusive, for the purpose of notifying appropriate law enforcement authorities;
 - (vi) The control and maintenance of a system for the issuance of temporary employee license credentials and vendor access credentials;
 - (vii) The recordation and immediate notification to appropriate supervisors and the division and its designee of any and all unusual occurrences within the video lottery gaming facility for which the assignment of a security department employee is made. Each incident, without regard to materiality, shall be assigned a sequential number and, at a minimum, the following information shall be recorded in an electronic file which prohibits or tracks any changes or in indelible ink in a bound, laboratory-type notebook from which pages cannot be removed and each side of each page of which is sequentially numbered:
 - (A) The assignment number;
 - (B) The date;
 - (C) The time;
 - (D) The nature of the incident;
 - (E) The name of the person involved in the incident, and if applicable, their employee license number;
 - (F) The name and employee license number of the security department employee assigned; and
 - (G) The identification of any person who is removed, excluded or ejected.
- (4) A video lottery gaming accounting department supervised by a person referred to herein as a controller. The controller shall be responsible for all

video lottery gaming facility accounting control functions including, without limitation, the preparation and control of records and data, the control of stored data, the control of unused forms, the accounting for and comparison of operational data and forms, and the control and supervision of the cashiers' cage, any satellite cages and the count room.

- (5) The video lottery gaming agents are required to submit to the division a written plan stating the manner in which they will ensure compliance with the division's internal control guidelines and those internal control procedures submitted by the agent to the division. This plan may include the creation of an internal audit department or the hiring of a qualified provider of internal audit services (e.g. a certified public accounting firm or other consulting firm) or a combination of these measures. This plan should be approved in writing by the division prior to start up and any changes in the plan should be submitted to the division for approval.
- (6) The count room shall each be supervised by a video lottery gaming key employee, who shall be responsible for the supervision of the count.
- (7) A video lottery gaming agent that operates video lottery gaming in more than one room of the video lottery gaming facility may be required to maintain a separate cashiers' cage in each room. Each cashiers' cage shall be supervised by a video lottery gaming key employee referred to herein as a cage supervisor. The cage supervisor shall directly report to the controller or to another supervisor as approved by the division and shall be responsible for the control and supervision of cage cashiers, clerks and the cage functions. If a video lottery gaming agent elects to operate one (1) or more satellite cages, each satellite cage shall be supervised by a video lottery gaming key

employee in accordance with a supervisory structure approved in writing by the division and consistent with these regulations.

- (d) The video lottery gaming agent's personnel shall be trained in all internal control and accounting practices and procedures relevant to each employee's individual function. Special instructional programs shall be developed by the video lottery gaming agent in addition to any on-the-job instruction sufficient to enable all members of the departments required by this section to be thoroughly conversant and knowledgeable with the appropriate and required manner of performing of all transactions relating to their functions.
- (e) Notwithstanding any other provision of the division's regulations to the contrary, a video lottery gaming agent may designate and assign more than one person to serve jointly as the manager of a department so long as each person assigned has been licensed as a key employee and such assignment does not undermine the purpose of the internal control procedures. Each person serving as a joint manager of a department shall be individually and jointly accountable and responsible for the operations of that department.
- (f) Each department required or authorized by this section shall be supervised at all times by at least one video lottery gaming key employee; provided, however, that the division may, upon request by a video lottery gaming agent, exempt the internal audit department or the MIS department from this requirement.
- (g) The surveillance department shall be separate from all other departments of the video lottery gaming facility. To protect the confidentiality of surveillance system capabilities, access and admittance to the surveillance areas shall be limited to surveillance department personnel, the general manager of the facility, and any other person approved by the division.

(h) In the event of a vacancy in the chief operating officer position or in any department supervisor position required by this section:

(1) The video lottery gaming agent shall notify the division thereof no later than five (5) days from the date of vacancy. Such notice shall be in writing and shall indicate, without limitation, the following information:

- (i) The title of the vacant position;
- (ii) The date on which the position became vacant; and
- (iii) The date on which it is anticipated that the vacancy will be filled on a permanent basis.

(2) The video lottery gaming agent shall designate a person to assume the duties and responsibilities of the vacant position no later than thirty (30) days from the date of vacancy. Such person may assume the duties and responsibilities of the vacant position on a temporary basis, provided that:

- (i) Such person does not function as the department supervisor for any department required by this section;
- (ii) Such person's areas of responsibility will not be so extensive as to be impractical for one person to monitor;
- (iii) Such person is appropriately and adequately licensed; and
- (iv) Such position shall be filled on a permanent basis within 120 days of the original date of vacancy.

(3) Within five (5) days of filling any vacancy above, the video lottery gaming agent shall notify the division thereof. Such notice shall be in writing and shall indicate, without limitation, the following:

- (i) The position;
- (ii) The name of the person designated;
- (iii) The date that the vacancy was filled; and

- (iv) An indication of whether the position has been filled on a temporary or permanent basis.

2836-10.2 Purpose, format, submission and amendment of the video lottery gaming agent's system of internal control.

(a) The video lottery gaming agent shall design a system of internal control procedures which shall conform to the guidelines established by the division.

(b) The procedures of the system of internal control will be designed to ensure that:

(1) That assets of the video lottery gaming agent and division are safeguarded;

(2) That the financial records of the video lottery gaming agent are accurate and reliable;

(3) That the transactions of the video lottery gaming agent's operation are performed only as authorized by the Act and these regulations;

(4) That accountability for assets is maintained in accordance with generally accepted accounting principles;

(5) That only authorized personnel have access to assets;

(6) That recorded accountability for assets is compared with actual assets at reasonable intervals and appropriate action is taken with respect to any discrepancies;

(7) That employee and management functions, duties, and responsibilities are appropriately segregated and performed in accordance with sound practices by competent, qualified, licensed personnel and that no employee of the video lottery gaming agent is in a position to perpetuate and conceal errors or irregularities in the normal course of the employee's duties;

(8) That gaming is conducted with integrity and in accordance with the Act

and these regulations; and

(9) That the video lottery gaming agent complies with all Federal, State, and local tax laws, codes, and reporting requirements.

(c) Each video lottery gaming agent shall submit to the division a description of its system of internal procedures and administrative and accounting controls in accordance with these regulations. Such submission shall be made to the division at least forty-five (45) days prior to the expected date of commencement of video lottery gaming activities unless otherwise decided by the division. The video lottery gaming agent shall be solely responsible for the design of the internal control system and for maintaining all its provisions and requirements in day to day operations. The video lottery gaming agent shall not commence gaming operations unless and until the submitted internal control system is approved by the division.

(d) The division shall review each submission and shall determine whether it conforms to the requirements of the Act, these regulations and the guidelines established by the division. If the division finds any insufficiency, it shall specify such insufficiency in writing to the video lottery gaming agent, which shall make timely and appropriate revisions and provide same to the division. When the division completes its review of the final submission and finds no insufficiencies, it shall so notify the video lottery gaming agent in writing. The division reserves the right to direct the video lottery gaming agent to revise its internal control procedures at any time if it determines that an internal control weakness exists.

(e) The video lottery gaming agent shall submit to the division for review and approval any changes to its approved internal control system not less than sixty (60) days before the changes are to become effective, unless otherwise permitted in writing by the division.

(f) If an event occurs at the video lottery gaming facility which would not allow for a sixty (60) day review by the division as set forth above, an emergency shall be deemed to exist. In such event, the video lottery gaming agent shall be permitted to make an emergency amendment to the approved internal control system as follows:

(1) In the event of an emergency, the video lottery gaming agent may amend an internal control procedure.

(2) The video lottery gaming agent shall submit a description of the emergency amendment of the internal control procedures and the circumstances necessitating the emergency amendment to the division within five (5) business days of the adoption of the emergency amendment.

(3) When the circumstances necessitating the emergency amendment to the internal control procedures abate, the video lottery gaming agent shall resume compliance with the internal control procedures.

(g) Each applicant for a video lottery gaming agent license shall prepare a description of its internal employee licensing procedures. Unless otherwise directed by the division, the employee licensing procedures shall be completed at least sixty (60) days prior to the projected date of issuance of a certificate of operation and shall be made available to the division upon request. Each such submission shall be prepared and maintained in a format provided by the division; shall contain a narrative and, where appropriate, diagrammatic representations of the internal control system to be utilized by the applicant, and shall address, without limitation, the following employee licensing requirements:

(1) Procedures used to prepare and maintain a jobs compendium;

(2) Procedures used to process and submit applications for video lottery

gaming agent employee licenses;

(3) Procedures used to prepare and submit petitions for temporary employee licenses.

(h) The video lottery gaming agent shall establish procedures to be approved by the division for the issuance, distribution and control of temporary and permanent identification and access badges to each such identified employee who is to be permitted, during the normal course of performing his or her duties or during emergencies, access to one or more restricted areas.

(1) Badges shall be serially numbered, shall include a photograph of the employee, the employees first name, designation of position and access code as published by the division. No person shall have access to any non-public area of a video lottery gaming facility without having an authorized and valid identification badge prominently displayed. The division will prescribe the design, color(s), wording and lettering of the identification badge in accordance with job title of the employee. The badge shall be of sufficient size to be readily visible by surveillance monitoring.

(2) Such identification badge shall remain the property of the division and must be surrendered by the licensed gaming employee upon the demand by any authorized representative of the video lottery gaming agent or the division or its designee where such employee has been suspended, discharged or has terminated his or her employment. The name of each badge recipient, the employment position, badge number and assigned code shall be forwarded to the division by the video lottery gaming agent no later than five (5) business days following the last date of employment.

(3) No video lottery gaming agent shall permit any person to have access to any restricted area in its video lottery gaming facility unless such access is

permitted in accordance with the video lottery gaming agent's internal controls and these regulations. No video lottery gaming agent shall permit any person to have access to any area restricted only to division employees as designated by the division.

(4) Each video lottery gaming agent may deny or limit access to any public areas in order to preserve the policies of the Act and these regulations, including, but not limited to, the following:

(i) Employees of video lottery gaming agents;

(ii) Unruly or disruptive patrons;

(iii) Underage persons; and

(iv) Any person who has voluntarily excluded themselves pursuant to the exclusion policy of the video lottery gaming agent.

(5) Nothing in this section shall limit the authority of the division or its duly authorized representative from obtaining immediate, unfettered access to restricted areas during the performance of their respective duties and responsibilities in accordance with the Act and these regulations.

(6) The division and its designees shall have unfettered and complete access to badge system records including, but not limited to, name of each badge recipient, the employment position, badge number and assigned code. This listing shall be provided to the division or its designees upon commencement of the operation of the video lottery gaming facility and updated pursuant to paragraph (c) of this section.

2836-10.3 Obligation to terminate, suspend or refuse employment; form of notice.

(a) Each video lottery gaming agent shall terminate or suspend the video lottery gaming employment of any employee whose license has been denied, revoked or

suspended by the division.

- (b) The division shall notify each video lottery gaming agent of the name of each person whose license, registration or application has been revoked, suspended or denied by the division concurrent with such revocation, suspension or denial.
- (c) Each video lottery gaming agent required to terminate or suspend the video lottery gaming employment of any person shall do so within twenty-four (24) hours of receipt of the notice from the division described in this part.

2836-10.4 Employee reporting and record keeping requirements.

Each video lottery gaming agent shall maintain a complete, accurate and current record of each employee in a form required by the division and each video lottery gaming agent shall file such active and terminated employee reports with the division by electronic data transfer monthly as prescribed by the division.

2836-11 FINANCIAL CONTROLS FOR VIDEO LOTTERY GAMING AGENTS

2836-11.1 Annual audit and other related reports.

- (a) Each video lottery gaming agent, unless specifically exempted by the division in writing, shall, at its own expense, cause its annual financial statements to be audited in accordance with generally accepted auditing standards by an independent certified public accountant licensed to practice in the state.
- (b) The annual financial statements shall be prepared on a comparative basis for the video lottery gaming agent's current and prior standard financial year, and shall present financial position and results of operations in conformity with generally accepted accounting principles.
- (c) The financial statements required by this section shall include a footnote reconciling and explaining any differences between the financial statements included in the video lottery gaming agent's annual report and the audited

financial statements. Such footnote shall, at a minimum, disclose the effect of such adjustments on:

- (1) Revenues from the video lottery gaming facility;
- (2) Revenues net of complimentary services;
- (3) Total costs and expenses;
- (4) Income before extraordinary items; and
- (5) The net result of revenues less expenses.

(d) Two copies of the audited financial statements, together with the report thereon of the video lottery gaming agent's independent certified public accountant, shall be filed with the division not later than one hundred twenty (120) days following the end of the video lottery gaming agent's fiscal year.

(e) In addition to its audited financial statements, the video lottery gaming agent shall submit a copy of the management letter prepared by the independent certified public accountant that lists any internal control or operational weaknesses noted during the financial statement audit and recommendations for improvement. The video lottery gaming agent shall prepare a response to the issues outlined in the management letter that describes any corrective actions taken or planned to be taken and include a copy of this response with its submission to the division as required in subsection (d) of this part above.

(f) In addition to the management letter, the division may require the video lottery gaming agent to engage an independent certified public accountant approved by the division to perform an additional review of internal controls and/or specified expenditures that conform to specifications prescribed by the division. The division shall notify the video lottery gaming agent of the type of report required, the scope of such report, and the frequency with which it should be performed. This review shall be performed at the expense of the video lottery gaming agent

unless otherwise determined by the division. The video lottery gaming agent shall respond to recommendations in the report noting any corrective actions taken or planned to be taken. The video lottery gaming agent shall submit two copies of this report including the required response to the division within ninety (90) days following the end of the period covered by the report, unless otherwise instructed by the division.

(g) If the video lottery gaming agent or any of its affiliates is publicly held, the video lottery gaming agent or the affiliate shall submit one (1) copy to the division of any report, including, but not limited to, forms S-1, 8-K, 10-Q, 10-K, proxy or information statements and all registration statements, required to be filed by such licensee or affiliates with the Securities and Exchange Commission or other domestic or foreign securities regulatory agency, at the time of filing with such commission or agency.

(h) If an independent certified public accountant who was previously engaged as the principal accountant to audit the video lottery gaming agent's financial statements resigns or is dismissed as the video lottery gaming agent's principal accountant, or another independent certified public accountant is engaged as principal accountant, the video lottery gaming agent shall file a report with the division within ten (10) days following the end of the month in which such event occurs, setting forth the following:

(1) The date of such resignation, dismissal or engagement;

(2) Whether in connection with the audits of the two most recent years preceding such resignation, dismissal, or engagement there were any disagreements with the former accountant on any matter of accounting principles or practices, financial statement disclosure, or auditing scope or procedure, which disagreements if not resolved to the satisfaction of the former

accountant would have caused him to make reference in connection with his or her report to the subject matter of disagreement, including a description of each such disagreement. The disagreements to be reported shall include those resolved and those not resolved;

(3) Whether the principal accountant's report on the financial statements for any of the past two (2) years contained an adverse opinion or disclaimer of opinion or was qualified. The nature of such adverse opinion, disclaimer of opinion, or qualification shall be described;

(4) The video lottery gaming agent shall request the former accountant to furnish to the video lottery gaming agent a letter addressed to the division stating whether that accountant agrees with the statements made by the video lottery gaming agent in response to subsection (h) of this part. Such letter shall be filed with the division as an exhibit to the report required by subsection (h) of this part.

(i) The division has the authority to conduct or have conducted an audit or review of any of the video lottery gaming agent's financial controls and records.

(j) In those circumstances where the video lottery gaming agent is not currently an active operator of a video lottery gaming facility, or portion thereof, the division may by written authorization either revise or eliminate the standard reports to be filed by the video lottery gaming agent.

2836-11.2 Submission of standard financial and statistical reports.

(a) Each video lottery gaming agent, unless specifically exempted by the division, shall file quarterly reports of financial, statistical, and informational data. The division shall prescribe a set of standard reporting forms and instructions to be used by each video lottery gaming agent in filing such reports.

(b) Each report required to be submitted to the division by this part shall be received

or postmarked not later than the required filing date unless specific approval for an extension is granted in writing to the video lottery gaming agent by the division. Requests for such extension must be submitted to the division in writing prior to the required filing date. Quarterly reports shall be due not later than forty-five (45) days following the end of the last month of any quarter.

- (c) In the event of a video lottery gaming agent license termination, change in business entity, or material change in ownership, the division may at its discretion require the filing of an interim report, as of the date of occurrence of the event.
- (d) Copies of all financial statements and statistical reports required to be filed with the division shall be furnished by the video lottery gaming agent.

2836-11.3 Format and structure of accounting records.

- (a) The video lottery gaming agent shall maintain complete, accurate, legible and permanent records of all transactions pertaining to its revenues, expenses, assets, liabilities, and equity in conformance with generally accepted accounting principles. The failure of the video lottery gaming agent to maintain records according to such principles shall be a violation of these regulations.
- (b) The accounting records maintained by the video lottery gaming agent shall be maintained using a double entry system of accounting with transactions recorded on the accrual basis and supported by detailed subsidiary records. Such subsidiary records shall include, at a minimum, all of the following:
 - (1) Detailed general ledger accounts identifying all revenue, expenses, assets, liabilities, and equity for the video lottery gaming agent;
 - (2) A record of all investments, advances, loans, and accounts receivable balances due the video lottery gaming agent;
 - (3) A record of all loans and other accounts payable by the video lottery gaming

- agent;
- (4) A record of all accounts receivable written off as uncollectible by the video lottery gaming agent;
 - (5) Journal entries prepared by the video lottery gaming agent;
 - (6) Records that identify video lottery terminal drop and video lottery terminal win for each video lottery terminal and records accumulated for each video lottery terminal by shift or by another accounting period pre-approved in writing by the division;
 - (7) Records supporting the accumulation of the costs for complimentary services and items including records required to fully comply with all the federal financial record-keeping requirements enumerated in 31 CFR Part 103;
 - (8) Records required by a video lottery gaming agent's system of internal control;
 - (9) Work papers supporting the daily reconciliation of cash accountability;
 - (10) Records supporting the utilization of any expenses funded by the marketing allowance;
 - (11) Other records that the division has required in writing to be maintained.
- (c) Notwithstanding any of these regulations to the contrary, all accounting records shall be kept for a period of not less than seven (7) years from their respective dates.

**2836-12 REQUIREMENTS FOR DOING BUSINESS WITH CONSTRUCTION
CONTRACTORS**

2836-12.1 Conduct of business with construction contractors; agent responsibilities.

No video lottery gaming agent may commence business with a construction contractor for the provision of construction services except pursuant to this part if:

- (a) The construction contractor has a contract (or expects to transact business) with a video lottery gaming agent that exceeds \$250,000 in any twelve (12) month period; or
- (b) The construction contractor has contracts with more than one video lottery gaming agent that combined exceed \$500,000 in any twelve (12) month period.

2836-12.2 Construction Contractor Identification Number.

- (a) It shall be the responsibility of each video lottery gaming agent to ensure that all construction contractors with which it seeks to conduct business has first obtained from the division a construction contractor identification number by submitting an application for such number on a form prescribed by the division.
- (b) The division shall maintain the name and business address of each construction contractor receiving an identification number pursuant to this part. During normal business hours, a licensed employee shall escort a construction contractor on the gaming floor.
- (c) Notwithstanding any other provision of these regulations, no video lottery gaming agent shall enter into an agreement with any person or business entity who:
 - (1) Has been denied a construction contractor registration and identification number;
 - (2) Has failed to comply with the appropriate filing requirements for a construction contractor;
 - (3) Has been temporarily prohibited from doing business with any video lottery

gaming agent.

2836-12.3 Prohibited construction contractor list.

- (a) The division shall maintain a prohibited construction contractor list containing those person(s) or business entities with whom video lottery gaming agents are prohibited from doing business in accordance with these regulations. Such list shall be made available to video lottery gaming agents by the division on a regular basis.
- (b) No person or business entity shall be removed from the prohibited construction contractor list except as follows:
 - (1) By order of the division;
 - (2) Upon expiration of the applicable period of restriction; or
 - (3) For a person who is placed on the prohibited construction contractor list for failure to comply with all applicable filing requirements, upon compliance therewith or after a period of three (3) years from the date of prohibition unless the division determines that such contractor should remain on such list to protect the public interest.

2836-12.4 Filing construction contractor information with the division.

- (a) Each construction contractor which does business with a video lottery gaming agent shall complete and file a registration statement with the division.
- (b) Each video lottery gaming agent shall submit to the division on a quarterly basis a list of all construction contractors with whom it transacts business. Such agent shall update such list submitted to the division immediately upon entering into any agreement with a construction contractor to conduct such business.

- (c) The division may review the transaction documents between the video lottery gaming agent and any construction contractor to determine the following:
- (1) The reasonableness of the terms of the transaction, including the terms of compensation;
 - (2) The qualifications of the persons involved in and associated with the transaction in accordance with the standards of these regulations.
- (d) If the division disapproves of a transaction between the video lottery gaming agent and any construction contractor or any person associated therewith, the division may direct the video lottery gaming agent to terminate such transaction or may direct such agent to pursue any remedy or combination of remedies as the division may require. If such disapproved transaction is not thereafter promptly terminated, such failure shall be a violation of such agent's license and the division may pursue such remedy or combination of remedies against a video lottery gaming agent provided for in these regulations.
- (e) The division reserves the right to require any construction contractor to apply for a construction contractor identification number, regardless of whether the monetary threshold set forth in this part has been met, if it is deemed necessary by the division in order to protect the public interest, or to accomplish the policies and purposes of the act or these regulations.
- (f) Construction contractors may be required to pay a registration fee as determined by the division.

2836-13 FEES

2836-13.1 Fee policy for video lottery gaming.

The division shall impose a fingerprint processing fee upon any applicant as required by these regulations.

2836-14 VIDEO LOTTERY GAMING REVENUES

2836-14.1 Identification of financial institution.

(a) Prior to the commencement of the operation of any video lottery gaming facility, the video lottery gaming agent shall submit to the division for approval the name and location of a financial institution authorized to do business in the state together with:

- (1) The account number for the account designated by the video lottery gaming agent for the deposit of video lottery gaming revenues;
- (2) The account number for the account designated by the video lottery gaming agent for the deposit by the division of the daily marketing allowance for such video lottery gaming facility; and
- (3) The financial institution's routing information for collection and distribution of video lottery gaming revenue.

(b) The financial institution shall be a bank or trust company, as defined by the state banking law, which is authorized to do business in the state and which maintains an office for the transaction of business within the state. The video lottery gaming agent shall authorize such bank or trust company to transfer revenue to the division or its duly authorized representative in a manner consistent with these regulations.

(c) The accounts designated by the video lottery gaming agent pursuant to this part shall be used exclusively for either:

- (1) The deposit and distribution of the daily video lottery gaming revenue; or
- (2) The deposit and distribution of the daily marketing allowance.

The video lottery gaming agent shall not commingle other funds into said accounts.

(d) Each video lottery gaming agent shall provide the division thirty (30) days advance notice of any proposed account changes in order to insure the uninterrupted distribution of video lottery gaming revenue to the division.

2836-14.2 Deposit of video lottery gaming revenues by agents.

(a) Each video lottery gaming agent shall be required to deposit daily into the dedicated bank account for video lottery gaming revenue the net proceeds from video lottery gaming for the previous day as determined by the video lottery gaming central system and related reports. Any withholdings for federal, state, and local income taxes, or public assistance and child support intercepts, shall be included in the daily deposit. The division shall remit such withholdings when received to the appropriate governmental agencies.

(b) The net proceeds of video lottery gaming required to be remitted daily to the division by this part shall be remitted through an Electronic Funds Transfer (EFT) from the dedicated bank account for video lottery gaming revenue provided by the video lottery gaming agent. The division may utilize the EFT to adjust certain administrative expenses, video gaming agent marketing allowance, prize payments or net machine income, as determined by the division. To the extent that such daily EFT cannot be achieved due to the unavailability of bank services, the remission shall be made on the first day thereafter that such services are available. Failure to comply with this procedure for EFT may result in the immediate suspension of video lottery gaming at the video lottery gaming facility.

(c) The division is not responsible for the loss or theft of money prior to its distribution to the division.

(d) Any prize that has not been paid out within a time period specified by the division shall be remitted to the division.

2836-14.3 Deposit of marketing allowance by the division.

The division, upon receipt of the net proceeds of video lottery gaming pursuant to this part for any gaming day, shall deposit, or cause the deposit of the applicable marketing allowance for such video lottery gaming facility to the account established for such purpose by each video lottery gaming agent. Withdrawals from such account by the video lottery gaming agent shall be made only in accordance with the provisions of these regulations.

2836-14.4 Duty to notify of accounting discrepancies.

- (a) Each video lottery gaming agent shall be responsible for resolving accounting discrepancies between actual monies collected and the amounts reported by the central system.
- (b) Each video lottery gaming agent shall report to the division the date, amount, and cause of any accounting discrepancy resulting from a daily count of receipts. Where the cause of the accounting discrepancy is due to erroneous central computer system reporting, the division shall conduct an investigation to determine the proper accounting for daily receipts and report the findings of such investigation to the video lottery gaming agent.
- (c) Discrepancies shall mean differences between actual money collected and the amount shown on the invoice report provided by the division.
- (d) The division is not responsible for resolving net terminal income discrepancies.

2836-14.5 Delinquent accounts.

The division may charge debt service in the amount of one and one-half (1½) percent monthly (eighteen (18%) percent per annum) on any monies due to the division from video lottery gaming agents whose accounts are delinquent over thirty (30) days.

2836-15 SUSPENSIONS AND REVOCATIONS

2836-15.1 Suspension and revocation of a license issued pursuant to the video lottery gaming law.

- (a) Acceptance of a video lottery gaming license or renewal thereof by a licensee constitutes an agreement on the part of the licensee to be bound by these regulations and the policies and procedures of the division. It is the affirmative responsibility of all licensees to keep informed of the content of all such regulations, policies and procedures and amendments thereto. Any licensee, other than a natural person, may be held accountable for the violations of its principals or key employees. The division may suspend or revoke any license issued by the division for any violation of these regulations.
- (b) At the discretion of the division, a license issued under these regulations may be subjected to suspension or revocation, or its renewal rejected for any of the following reasons, or any combination thereof:
- (1) Any violation of any provision of such license, the act or these regulations;
 - (2) Failure to comply with instructions of the division concerning a licensed activity;
 - (3) Conviction of any:
 - (i) Felony offense, as such term as defined in state Penal Law Section 10.00(5), or an equivalent offense committed in another jurisdiction;
 - (ii) A misdemeanor related to gambling, gaming, bribery, fraud, or any other offense prejudicial to public confidence in the state lottery;
 - (4) Failure to file any returns or reports or to keep records or to pay any fee or submit revenue as may be required;
 - (5) Fraud, deceit, misrepresentation or conduct prejudicial to public confidence in the division;
 - (6) Failure to furnish a surety or other bond in such amount as may be

required by the division;

(7) A material change since issuance of the license with respect to any matter required to be considered by the division;

(8) Violation of the provisions of the Act and/or these regulations;

(9) Whenever the director finds that the licensee's experience, character, and general fitness are such that participation in video lottery gaming is inconsistent with the public interest or convenience or for any other reason within the discretion of the director;

(10) The failure to notify the division, in writing, within a reasonable time of any arrest for a misdemeanor or a felony, indictment, or service of a summons, or conviction for any felony whether within or without the state, or within or without the United States, occurring during the term of the license or the renewal thereof.

(c) Prior to commencing a disciplinary proceeding, each licensee shall have the opportunity to correct and/or explain the issue raised by the division.

(d) Upon suspension or revocation of any license issued pursuant to these regulations, other than a video lottery gaming agent license, the licensee shall surrender such license and any badging for the video lottery gaming facility to the division. Such licensee shall be banned from entering the video lottery gaming facility for a period of one (1) year or until the license is reinstated, whichever first occurs.

(e) Upon termination of a video lottery gaming agent's license for any reason, the video lottery gaming agent shall:

(1) Go to its bank on a date designated by the division for the purpose of rendering a final video lottery gaming accounting of any accounts established by these regulations;

(2) Surrender of the video lottery gaming agent's license and other material provided by the division.(3) Upon failure of any video lottery gaming agent to settle accounts on or before the designated date, the division may exercise such enforcement powers as may be provided for by law. The video lottery gaming agent will provide unrestricted entry onto its premises for the purpose of the removal of all video lottery gaming equipment and incidentals.

2836-15.2 Continuation of video lottery gaming in event of termination of video lottery gaming agent license.

By reason of the substantial investment of state revenue in each video lottery gaming facility, in the event of a termination of the video lottery gaming agent's license, the division or its designee may take possession and control of such video lottery gaming facilities and amenities to insure the uninterrupted operation of the video lottery gaming facility until such time as a successor to such video lottery gaming agent is approved by the division. During any such period of operation by the division or its designee, the agent compensation shall be retained by the division for the benefit of the fund.

2836-15.3 Initiation of disciplinary proceedings.

(a) Except as otherwise provided by the act or these regulations, at any time during the review and investigation of a complaint or alleged violation of the act or these regulations, the division may initiate disciplinary proceedings:

- (1) to suspend or revoke any license or certificate issued pursuant to the act; or
- (2) to otherwise sanction the agent or licensee for violations of the act or these regulations.

(b) Disciplinary proceedings commenced by the division shall be initiated by sending a notice by first class mail to the last known mailing address of the licensee. Such notice, without limitation, shall set forth a list of the grounds for the proposed disciplinary action; the time and place for a hearing before the division

concerning the proposed disciplinary action; and a statement of the disciplinary action sought to be imposed against such licensee. Such notice shall be mailed to the licensee not less than thirty (30) days prior to the scheduled hearing date.

2836-15.4 Summary suspension.

- (a) Where the division has reasonable grounds to believe that any licensee has been guilty of a deliberate, willful or a grossly negligent violation of any of the provisions of the act or these regulations, including, without limitation, the failure to pay when due the moneys due and owing to the division pursuant to the act or these regulations, or that the licensee has been charged with a felony under the laws of the state or in another state, or that due to other violations of law by the licensee or its patrons, emergency action is required in order to protect the public health, safety, or welfare of the public, and where the division incorporates such findings in an order, the division may summarily suspend the license and the licensee without prior notice pending disciplinary proceedings pursuant to these regulations.
- (b) The summary suspension of a license without notice pending a public hearing shall be for a period not to exceed thirty (30) days except that a licensee may waive the thirty (30) day hearing requirement in writing no later than five (5) business days prior to the scheduled hearing. In no event, however, shall the requested continuance be granted unless the licensee requesting the continuance has complied with the order of summary suspension by surrendering their license to the division.
- (c) The division shall deliver a notice of summary suspension by registered mail to the licensee who has been suspended. The notice shall contain such information as the division determines necessary to provide the licensee with notice of the

summary suspension and the reason(s) therefore, including, without limitation, stating when the suspension will begin and end.

- (d) The division shall serve upon the summarily suspended licensee a formal notice initiating disciplinary proceedings and a notice of hearing within five (5) days after receipt by the licensee of the notice of summary suspension

2836-15.5 Penalties imposed by division prior to reissuance of license.

The division may require a person or business entity who is subjected to disciplinary proceedings, or who formerly held a license pursuant to these regulations, to meet certain conditions before reissuing a license to that person or business entity, including but not limited to the following:

- (1) Restitution of money;
- (2) Restitution of property;
- (3) Suspension or revocation of the payment to the video lottery gaming agent of any portion of the video lottery gaming marketing allowance;
- (4) Making periodic reports to the division as required.

Any or all of the conditions imposed by the division pursuant to this part may be imposed jointly and/or severally.

2836-15.6 Costs.

- (a) In addition to the condition imposed by the division upon the licensee, the licensee shall pay, pursuant to an order issued by the division or the division's authorized representative, the costs incurred by the division in making the determination to discipline, suspend or revoke, including, without limitation, the costs of the division's vendors and contractors engaged for such purpose.
- (b) Costs may include, but are not limited to: witness fees and per diem; expert witness fees; duplication costs; court reporter, transcription, and other costs incurred in administering or preserving any record; extraordinary staffing costs of

the division; legal fees; expenses incurred in commencing, accommodating, or conducting the hearing; investigative costs; exhibit costs; and any other judicially or statutorily recognized cost, whether incurred prior or subsequent to the conclusion of the investigation of the matter.

- (c) Unless otherwise ordered as set forth in sub-section (a) of this part, costs must be paid to the ordered recipient on or before the thirtieth (30th) day from the date of the order awarding the costs, unless stayed by the division or a court of competent jurisdiction. Failure to pay and tender such costs as ordered shall constitute grounds for sanction, including further fine, suspension and revocation of any license or other affirmative approval.

2836-15.7 Disciplinary hearings.

Any disciplinary hearing commenced pursuant to these regulations shall be conducted substantially in accordance with the provisions of 21 NYCRR Part 2800-7. In the event of a conflict between that part and these regulations, these regulations shall control.

2836-15.8 Final action by division.

After notice and hearing, in the event the division finds insufficient evidence to support the violations claimed, the division may find the licensee not guilty of any of the grounds alleged for disciplinary action; in which event the disciplinary proceedings shall be terminated. The division may, however, find the licensee guilty by a preponderance of the evidence of some or all of the grounds alleged for disciplinary action; in which event the division may:

- (1) revoke the license; and/or
- (2) suspend the license for a period of time not to exceed six (6) months; and/or

- (3) issue a public or private letter of reprimand to be placed in the file of the licensee.

This section does not prevent the division from compromising or settling at any time a formal hearing. Written findings of fact, conclusions of law, and an order must be entered before any decision of the division shall be considered final.

2836-16 CONTINUING OBLIGATIONS OF VIDEO LOTTERY GAMING AGENTS

2836-16.1 Notification of anticipated or actual changes in directors, officers or equivalent licensees of video lottery gaming agents and holding companies.

Each video lottery gaming agent or managing agent shall immediately notify the division, in writing, as soon as is practicable, of the proposed appointment, appointment, proposed nomination, nomination, election, intended resignation, resignation, incapacitation or death of any member of, or partner in, its board of directors, partnership or limited liability company, as applicable, or of any officer or other person required to be licensed as a principal or key employee under these regulations. The division shall undertake any review of the license necessitated by the change.

2836-16.2 Notification concerning certain new principals of publicly traded holding companies.

(a) A video lottery gaming agent shall immediately notify the division in writing if the video lottery gaming agent becomes aware that, with regard to any publicly traded or private holding company of the video lottery gaming agent or managing agent, any person has acquired:

- (1) Five (5) percent or more of any class of equity securities;
- (2) The ability to control the holding company; or

- (3) The ability to elect one or more directors of the holding company.
- (b) If any publicly traded holding company of a video lottery gaming agent either files or is served with any Schedule 13D, Schedule 13G or Section 13F filing under the Securities Exchange Act of 1934, copies of any such filing shall be immediately submitted to the division by the video lottery gaming agent or the publicly traded holding company.
- (c) The division shall undertake any review of the license necessitated by the change.

2836-16.3 Notification of financial transactions.

- (a) Each video lottery gaming agent and/or the managing agent of the video lottery gaming facility shall immediately notify the division, in writing, as soon as it becomes aware that it intends to enter into a financial transaction bearing any relation to its video lottery gaming facility, including, without limitation, if such financial transaction may result in any new financial backers, investors, mortgagees, bondholders, or holders of indentures, notes, or other evidences of indebtedness who may be subject to licensing. Such notice shall be addressed to the division in accordance with these regulations.
- (b) Prior to closing on any such financial transaction, the video lottery gaming agent shall provide a summary of the terms of such transaction; copies of all relevant documents for such transaction; such financial statements as requested by the division; together with any such other and further information that the division may request. In addition to the foregoing, the video lottery gaming agent shall cause the financial institution or lender to consent to a non-disturbance agreement with the division which will insure the uninterrupted operation of the video lottery gaming facility in the event of any default under the terms and

provisions of such financial transaction.

(c) The division shall undertake any review of the license necessitated by the financial change.

2836-16.4 Issuance or transfer of interests; approval.

No person shall issue or transfer any security or ownership interest in a video lottery gaming agent or managing agent, or any non-publicly traded subsidiary or holding company thereof, without the express, prior written approval of the division. The division shall not grant any such approval without considering the provisions of licensing.

2836-16.5 Subsidiaries.

(a) Each video lottery gaming agent or holding company thereof shall report immediately, in writing, to the division the formation or dissolution of, or any transfer of a non-publicly traded interest in, any subsidiary of the video lottery gaming agent or any subsidiary of any holding company of the video lottery gaming agent which bears any relationship to the video lottery gaming facility.

(b) Each video lottery gaming agent shall file with the division such documents for each subsidiary of the video lottery gaming agent as may be requested by the division.

(c) The division shall undertake any review of the license necessitated by the financial change.

2836-16.6 Minutes of meetings of boards and committees.

Each video lottery gaming agent licensee or applicant thereof shall file with the division copies of the minutes of all meetings of its board of directors, members or partnership executive committee, as applicable, and of all committee meetings

including, without limitation, the audit committee, within seven (7) days of their formal adoption.

2836-16.7 Records regarding ownership.

(a) In addition to other records and information required by these regulations, each video lottery gaming agent and/or the managing agent for the video lottery gaming facility shall maintain and keep current the following records regarding the equity structure and owners:

(1) If a corporation:

- (i) A certified copy of articles of incorporation and any amendments thereto;
- (ii) A copy of by-laws and amendments thereto;
- (iii) An incumbency list of officers and directors;
- (iv) Minutes of all meetings of stockholders and directors;
- (v) A current list of all stockholders and stockholders of affiliates, including their names and the names of beneficial owners of shares held in street or other name where any beneficial owner has a beneficial interest in two (2) percent or more of the outstanding shares of any class, addresses, and the number of shares held by each and the date acquired;
- (vi) A complete record of all transfers of stock;
- (vii) A record of amounts paid to the corporation for issuance of stock and other capital contributions and dates thereof;
- (viii) A record, by stockholder, of all dividends distributed by the corporation; and
- (ix) A record of all salaries, wages, and other remuneration (including prerequisites), direct and indirect, paid during the calendar or fiscal

year, by the corporation, to all officers, directors, and stockholders with an ownership interest at any time during the calendar or fiscal year, equal to or greater than five (5) percent of the outstanding capital stock of any class of stock.

(2) If a partnership:

- (i) A schedule showing the amounts and dates of capital contributions, the names and addresses of the contributors, and percentage of interest in net assets, profits, and losses held by each;
- (ii) A record of the withdrawal of partnership funds or assets;
- (iii) A record of salaries, wages, and other remuneration (including prerequisites), direct and indirect, paid to each partner during the calendar or fiscal year; and
- (iv) A copy of the partnership agreement and certificate of limited partnership, if applicable.

(3) If a sole proprietorship:

- (i) A schedule showing the name and address of the proprietor and the amount and date of his or her original investment;
- (ii) A record of dates and amounts of subsequent additions to the original investment and withdrawals therefrom; and
- (iii) A record of salaries, wages, and other remuneration (including prerequisites), direct or indirect, paid to the proprietor during the calendar or fiscal year.

(4) If a limited liability company:

- (i) A certified copy of the articles of organization;
- (ii) A certified copy of the member agreement;
- (iii) A certified record of all current members;

(iv) an incumbency list for all officers; and

(v) minutes of all meetings of members.

(b) All records regarding ownership shall be located on the premises of the video lottery gaming facility, unless a specific exemption is allowed to the video lottery gaming agent by the division.

(c) Each video lottery gaming agent or applicant shall, upon request by the division, provide a list of all record holders of any or all classes of publicly traded securities issued by any holding company or by any other affiliated entity which is required to qualify as a financial source.

2836-16.8 Continuing obligation to notify division of violations and criminal activities.

Each licensee under these regulations shall have the continuing obligation to report to the division any regulatory or criminal violation that becomes known to them with respect to any aspect of video lottery gaming in this state or their gaming activities in any other jurisdiction. The failure of any licensee to report any such regulatory or criminal violation to the division shall be a violation of such license, the act and these regulations.

2836-16.9 Sale of other lottery games.

Each video lottery gaming agent will offer for sale to the public and any player at the video lottery gaming facility all lottery games offered for sale by the division, and will provide to the division adequate and appropriate space for such sales as approved by the division.

2836-17 VIDEO LOTTERY GAMING AGENT OPERATION CERTIFICATE

2836-17.1 General.

In addition to any requirements of the act and these regulations, by reason of the substantial investment of state revenue in each video lottery gaming facility, each video lottery gaming agent agrees upon acceptance of its license and operation certificate that for so long as the video lottery gaming facility is in operation, either by such agent, the division or the divisions' designee, the division shall have unfettered access to the video lottery gaming facility to assure such facilities' uninterrupted operation.

2836-17.2 Standards for issuance.

- (a) Each video lottery gaming agent, and/or its managing agent, responsible for the operation of a video lottery gaming facility shall obtain an operation certificate from the division prior to conducting video lottery gaming in such facility and prior to opening such video lottery gaming facility to the public. The operation certificate may be amended from time to time as required.
- (b) To obtain an operation certificate, each video lottery gaming agent shall establish to the satisfaction of the division that:
 - (1) The video lottery gaming facility complies in all respects with the applicable requirements of the act and these regulations;
 - (2) The video lottery gaming licensee has implemented necessary internal control procedures for the safe and efficient operation of the video lottery gaming facility;
 - (3) The video lottery gaming agent and each of its principals has complied with the licensing provisions of these regulations;
 - (4) The division has been provided proof that all employees are licensed for the performance of their respective responsibilities;
 - (5) The video lottery gaming facility is prepared in all respects to receive and

entertain the public;

(6) The facility of the video lottery gaming agent has met or exceeded state and local fire and safety standards; and

(7) The video lottery gaming agent has provided certified payroll records establishing to the satisfaction of the division that it has complied with the requirements of the act, if applicable.

(c) Each operation certificate granted by the division to a video lottery gaming agent shall include, at a minimum, an itemized list of the authorized video lottery terminals, by identification number, that are permitted in the video lottery gaming facility; and a list of those areas specifically designated as restricted areas.

(d) As a condition to receiving such operation certificate, each video lottery gaming agent and/or its managing agent shall enter into such agreements with the division as the division deems necessary to protect the uninterrupted access and operation of the video lottery gaming facility.

2836-17.3 Video Lottery Gaming Facility.

(a) In addition to any other requirements required by the act or these regulations, in order to receive an operation certificate from the division, the applicant for a video lottery gaming agent license must satisfy the division that the proposed facility will have adequate support facilities as required by these regulations, as well as superior consumer amenities and conveniences comparable to other similar facilities in the industry that will encourage repeated player attendance.

(b) All video lottery gaming facilities shall provide sufficient alternate power sources to permit continued operation of the facility in case of the failure of primary power supplies.

(c) In the event the video lottery gaming agent proposes to conduct video lottery

gaming, or to house an amenity thereto, in a temporary structure, and in addition to any other requirements required by these regulations for the division to issue an operation certificate for such structure, the video lottery gaming agent must demonstrate to the satisfaction of the division that conducting video lottery gaming, or housing such an amenity, in the proposed temporary structure will be to the economic benefit to the video lottery gaming facility.

(d) Each video lottery gaming facility shall include separate offices of sufficient size for use by the division and otherwise built in accordance with specifications provided by the division.

(e) The division shall not approve the construction or alteration of any facility or building devoted to the operation or housing of video lottery gaming until the person or entity selected to operate such video lottery gaming shall have submitted to the division a statement of the location of the proposed facility or building, together with a plan of such racetrack, and plans of all existing buildings, seating stands and other structures on the grounds of such racetrack, in such form as the division may prescribe, and such plans shall have been approved by the division. The division, at the expense of the applicant, may order such engineering examination thereof as the division may deem necessary. Such construction or alteration may be made only with the approval of the division and after examination and inspection of the plans thereof and the issuance of a permit therefore by the division.

2836-17.4 Parking.

Each video lottery gaming agent shall submit to the division for review and approval a plan for parking at the video gaming facility which provides sufficient parking, in accordance with applicable state and federal laws, rules and regulations.

2836-17.5 Video lottery gaming floor and any restricted areas.

- (a) Prior to the issuance of or an amendment to an operation certificate and the commencement of video lottery gaming, each video lottery gaming agent shall obtain division approval for the physical floor plans of its video lottery gaming floor including any restricted areas, which floor plans shall be consistent with standards established by the division. Without limitation, such floor plans shall illustrate proper surveillance coverage of all the mandatory activities. Any deficiency in surveillance coverage shall be rectified by the video lottery gaming agent prior to issuance of a certificate.
- (b) Each physical video lottery gaming facility floor plan shall be drawn to one-eighth (1/8) inch scale or such other scale approved in writing by the division, shall be certified by an architect or other suitable professional licensed to practice in New York and shall depict, at a minimum, the location of the following:
- (1) Vault and main bank;
 - (2) Cashier's cage and its component offices and areas;
 - (3) Window at the cashiers' cage, noting its window number;
 - (4) Count room(s);
 - (5) Delivery station;
 - (6) Video lottery gaming self-redemption kiosk(s);
 - (7) Coin redemption kiosk(s);
 - (8) Automated teller machine(s);
 - (9) Bill breakers;
 - (10) Allocated space for the sale of other division products;
 - (11) The precise space allotted for each video lottery terminal, site controller and associated equipment. The initial floor plan shall contain, at the minimum, the following information for each terminal:

- (i) Type of video lottery terminal, e.g. upright or slant top
 - (ii) The location of a player stool, if any;
 - (12) Each satellite cage and its component offices and areas;
 - (13) Each other room or area that is accessible directly from the video lottery gaming floor;
 - (14) Each other area or room as designated by the division; and
 - (15) Points of access to the horse racing track portion of the racing facility.
- (c) The division shall determine placement of video lottery terminal manufacturers, games, and game denominations within the physical floor plan provided by the video lottery gaming agent and shall manage subsequent revisions, in conjunction with the video lottery gaming agent, to the placement of video lottery terminal manufacturers, games and game denominations.
- (d) The division reserves the right to continually manage, revise, modify and upgrade the product mix plan, games, themes, play styles, denominations, and other related aspects of the video lottery terminals in order to optimize the overall marketability and terminal performance of video lottery gaming.

2836-17.6 Movement of video lottery gaming terminals.

- (a) Whenever a video lottery gaming agent proposes that video lottery terminals be moved within a video lottery gaming facility, the video lottery gaming agent shall first:
- (1) Obtain any amendment to its operation certificate required by the division;
 - and
 - (2) Provide the division and the appropriate video lottery gaming vendor with written notice at least five days (5) prior to the scheduled movement. Under no circumstances shall terminals be moved until the division has approved the relocation plans.

(b) Each written request submitted to the division pursuant to this part shall be authored by the video lottery gaming agent's employee directly responsible for video lottery terminal(s) or his/her designee and shall include:

- (1) A computer generated inventory listing each video lottery terminal, its present location and its proposed location.
- (2) The date of request.
- (3) The proposed date of relocation or removal.
- (4) A written certification that all State safety and egress codes are adhered to.
- (5) A written certification from the surveillance director or his/her designee that adequate closed circuit television coverage of each video lottery terminal is present.

(c) The number of each type of authorized game included in the video lottery gaming agent's operation certificate or any approved amendments thereto shall be amended, upon the filing of an updated video lottery terminal master list, to conform to the correct number of each type of authorized game that is specified in the applicable list.

2836-17.7 Removal of video lottery gaming equipment.

(a) When a video lottery terminal is temporarily removed from the video lottery gaming floor, video lottery terminal drop contents shall be protected in accordance with the approved internal control system to preclude the misappropriation of stored funds.

(b) When a video lottery terminal is permanently removed from the video lottery gaming floor, the video lottery terminal drop contents shall be counted and recorded by at least two (2) employees, one of whom shall be a video lottery gaming count room employee, with appropriate documentation being routed to the accounting department for proper recording and accounting.

(c) Prior to the removal of a video lottery terminal from the video lottery gaming facility, prior written approval shall be obtained from the division. Documentation

providing the following shall be included for each removed video lottery terminal:

- (1) Manufacturer;
- (2) Serial number of video lottery terminal;
- (3) Video lottery terminal identification number.

2836-17.8 Operation certificate; effective date; duration.

- (a) Upon satisfaction of the requirements set forth in this part, the division shall establish the effective date of each operation certificate and authorize the video lottery gaming agent to commence operation of the video lottery gaming facility.
- (b) Subject to the division's authority to revoke, suspend, limit or otherwise alter an operation certificate in accordance with the terms of the act and these regulations, each such certificate, once issued, shall remain in full force and effect indefinitely under such terms and conditions as the division may impose, and shall not be altered, modified or amended except in accordance with the act and these regulations.
- (c) The continued effectiveness of each operation certificate shall be a prerequisite for the video lottery gaming facility to which it applies to remain open to the public for the operation of video lottery gaming.
- (d) Each video lottery gaming agent to which an operation certificate is issued shall operate its video lottery gaming facility strictly in accordance with the terms of its original operation certificate and the approved floor plans submitted in support thereof, and shall not change any of the items to which the operation certificate applies except in accordance with the act and these regulations and after obtaining any required amendments to its operation certificate.

2836-17.9 Operation certificate; amendment to conform to approved

changes.

- (a) Each video lottery gaming agent shall serve on the division, in a manner and in a format prescribed by the division, an application to amend its operation certificate whenever the video lottery gaming agent proposes a physical change to the video lottery gaming facility or a restricted area that requires division approval in order for its original operation certificate or any approved amendments thereto to continue in force and effect. The application for an amended certificate shall include, without limitation, the following:
- (1) A revised video lottery gaming facility floor plan or restricted area reflecting the proposed change, which revised floor plan shall be submitted in a format approved in writing by the division and filed therewith; and
 - (2) A statement from an architect or other suitable professional licensed to practice in New York certifying that the proposed change as presented will be in compliance with state building code and these regulations.
- (b) The division shall review the proposed change set forth in the application for an amended certificate or any amendments thereto for compliance with the act and these regulations and shall issue a determination and, if approved, notice to proceed, within a reasonable time after receipt of the application to amend.
- (c) The video lottery gaming agent submitting an application to amend its operation certificate pursuant to subsection (a) of this part shall notify the division in writing within five (5) days of final completion of any proposed change. A floor plan that depicts the actual changes made shall accompany the notice and be filed with the division. Each such floor plan shall depict the change and shall include updates, based on the actual changes made, for each item required to be included in the application pursuant to (a) above and described in the notice;

provided, however, that a floor plan of the entire video lottery gaming facility that depicts all changes proposed in the application and any amendment thereto shall accompany the notice of final completion.

(d) Promptly after the filing of a notice pursuant to subsection (c) of this part, the division shall inspect the physical changes actually made to the video lottery gaming facility to ensure that those changes conform to the floor plan accompanying the notice and the description previously submitted to the division, as modified by any properly filed amendments thereto. Following such inspection, the division shall notify the video lottery gaming agent in writing as to which physical change is approved and which is rejected, whereupon:

(1) The video lottery gaming agent, in the event any change is rejected, shall either:

(i) Correct any rejected change to conform with the floor plan accompanying the notice and the description previously submitted to the division, as modified by any properly filed amendments thereto, which correction shall be completed and inspected pursuant to this section;

(ii) Submit for approval, pursuant to (a) above, a new application for the proposed change; or

(iii) Take such other action as the division may direct to ensure that the currently approved floor plan accurately depicts the physical layout of the video lottery gaming facility, including any restricted areas.

(2) The operation certificate shall be amended to conform to each inspected and approved physical change.

**2836-18 COLLECTION, DISTRIBUTION AND AUTHORIZED USE OF
MARKETING ALLOWANCE**

2836-18.1 Video lottery gaming agent receipt of marketing allowance.

- (a) In accordance with the act, there shall be made available to each video lottery gaming agent from the daily video lottery gaming revenue generated at each video lottery gaming facility a marketing allowance to be used by each video lottery gaming agent for the reimbursement of marketing, promotion and associated costs incurred by the video lottery gaming agent for its video lottery gaming operations and pari-mutuel horse racing operations pursuant to an approved marketing plan pursuant to this part, as long as such costs associated with pari-mutuel horse racing operations simultaneously encourage increased attendance at such agent's video lottery gaming facilities.
- (b) All such marketing, promotion and associated costs incurred by any video lottery gaming agent shall be:
 - (1) Consistent with the customary manner of marketing and promoting comparable operations in other states and as described in an approved marketing plan; and
 - (2) Subject to the overall supervision of the division.
- (c) Each video lottery gaming agent shall establish a marketing allowance account for the deposit of the marketing allowance as required by these regulations.
- (d) Withdrawals from the marketing allowance account established by each video lottery gaming agent shall be permitted to reimburse the video lottery gaming agent for those expenses identified in a marketing plan approved annually by the division pursuant to this part.
- (e) Any withdrawal from the marketing allowance account by a video lottery gaming agent that is not approved by the division or identified in a marketing plan approved by the division shall be a violation of the video lottery gaming agent's license, the act and these regulations.

- (f) Nothing in these regulations shall prevent a video lottery gaming agent from incurring marketing, promotional and associated costs in excess of the marketing allowance, provided that this excess is identified in the marketing plan.
- (g) Marketing allowance funds shall be made available to each video lottery gaming agent via a reduction to the daily remittance proceeds due to the division. The daily remittance report on the central system shall include such reduction. It shall be the responsibility of the video lottery gaming agent to deposit the marketing allowance daily into an account dedicated and restricted to reimbursement of marketing, promotion, and associated costs of the video lottery gaming facility.

2836-18.2 Marketing and promotion plan.

- (a) Each video lottery gaming agent shall prepare annually a marketing and promotion plan (the "marketing plan") for the video lottery gaming facility. Each annual marketing plan shall be submitted to the division for review and approval as described in this part. An annual marketing plan shall include a summary of projected net machine income, projected marketing allowance, and projected expenditures by category, in a standard worksheet format prescribed by the division. The marketing plan worksheet shall include budgeted marketing expenditures by month and in total for each standard category. Such worksheet shall be reviewed by the division as part of the overall plan approval.
- (b) The failure to submit any marketing plan when due to the division shall be a violation of the video lottery gaming agent's license, the act and these regulations.
- (c) Each annual marketing plan must:
 - (1) Be prepared in accordance with the format prescribed by the division;

- (2) Fully describe, in a narrative form, subject to the approval of the division, the marketing and promotional activities which the video lottery gaming agent proposes for their video lottery gaming facility for the subsequent twelve (12) month period commencing on the first day of January of any calendar year. Such description must include the overall strategy of how the marketing allowance will be used for marketing, promotional and associated costs consistent with the customary manner of marketing and promoting comparable operations in the video lottery gaming entertainment industry in other states, and which are expected to be implemented at such video lottery gaming facility on a monthly, quarterly and annual basis, the target market for such marketing and promotion, and the anticipated effect (return on investment) of the marketing, promotional and associated costs described; any and all media buys advertising the video lottery gaming facility, whether directly or indirectly; and an itemization of the projected budget for all marketing and promotional expenses on a monthly, quarterly and annual basis.
- (d) Each annual marketing plan must be submitted to the division for review and approval not earlier than one hundred twenty (120) days and not later than ninety (90) days prior to the first day of January of any calendar year.
- (e) The division shall review the annual marketing plan upon receipt and provide objections, questions or comments, if any, to the video lottery gaming agent within forty-five (45) days.
- (f) If the marketing plan is approved by the division without comment, then the video lottery gaming agent may proceed with the marketing plan's implementation commencing on the first day of January of any calendar year.

- (g) In the event the division objects or comments on the marketing plan, or any portion thereof, such objection, comment or question shall be delivered to the video lottery gaming agent in writing together with a disapproval notice of the submitted marketing plan in whole or in part.
- (h) Not later than fifteen (15) days from the receipt by the video lottery gaming agent of a marketing plan disapproval notice from the division, or such longer time as the division and the video lottery gaming agent may agree in writing, the video lottery gaming agent shall address the division's objections or comments and submit an amended marketing plan to the division for review. Upon submission of the amended marketing plan to the division, a new forty-five (45) day time period for division review will commence as described by this part.
- (i) In the event the annual marketing plan is not approved by the commencement date of the marketing plan as agreed to by the division for any year, the division may, but shall not be required to, enter into an interim marketing plan agreement with the video lottery gaming agent for a period not to exceed ninety (90) days from such commencement date. Such interim marketing plan shall be in such form as approved by the division and govern the expenditure from the marketing allowance account during such ninety (90) day period for marketing, promotion and associated costs approved in such interim marketing plan. In the event the division does not approve an interim marketing plan, or in the event an interim marketing plan expires, the video lottery gaming agent shall not be entitled to reimbursement from the marketing allowance account until a marketing plan is approved by the division.
- (j) During any fiscal quarter covered by a marketing plan, the video lottery gaming agent may submit proposed adjustments, including an adjusted marketing plan worksheet and supporting documentation, to the marketing plan to the division

for review and approval. The division shall have fifteen (15) days from the receipt of any proposed adjustment(s) to the marketing plan to review, approve or disapprove such adjustments in writing.

(1) In the event the proposed adjustments to the marketing plan are approved by the division, written approval shall be sent to the video lottery gaming agent and the marketing plan shall be deemed amended accordingly.

(2) In the event such adjustments are disapproved by the division, such disapproval, and the reason(s) therefore, shall be sent to the video lottery gaming agent in writing.

2836-18.3 Establishment of the marketing allowance account.

(a) Each video lottery gaming agent shall establish a marketing allowance account with a financial institution in accordance with these regulations. Marketing allowance funds shall be deposited daily to the marketing allowance account but in no event more than five (5) business days after the accrual of such allowance.

(b) By establishing the marketing allowance account, each video lottery gaming agent irrevocably pledges, assigns and grants the division a security interest in and control over the marketing allowance account (as a deposit account) and all funds held or to be held therein, including, without limitation, all interest, dividends, cash, instruments and other property from time to time received, receivable or otherwise distributed, and all replacements, substitutions and proceeds of any of the foregoing. To perfect its interest in the marketing allowance account, the division may file such uniform commercial code financing statements and renewals thereof as necessary in the appropriate filing office(s).

(c) The division is not responsible for the loss or theft of any money in the marketing allowance account.

- (d) In the event the marketing allowance account contains a balance remaining at the end of any twelve (12) month marketing plan period, and any such balance is not approved to be used for reimbursement of marketing and promotion costs as identified in a marketing plan approved by the division for the immediately succeeding period, such balance shall be carried forward into the succeeding year and included in the marketing plan for that year.
- (e) A video lottery gaming agent may submit a request for reimbursement of qualified marketing expenses by updating the marketing plan worksheet and submitting it to the division for review and approval.
- (f) The video lottery gaming agent shall arrange for monthly financial institution statements to be provided to by the video lottery gaming agent's financial institution directly to the division.

2836-18.4 Marketing and promotion plan implementation.

- (a) The division or its representative may, at its discretion, review the books and records of the video gaming agent, to determine additional needs for assurance regarding utilization and reimbursement of the marketing allowance. Each video gaming agent shall maintain sufficient documentation and a clear audit trail to support the reimbursement of any and all marketing allowances.
- (b) Any reimbursement of a marketing allowance, as determined by audit to be a non-qualified marketing expense, shall be immediately returned to the marketing allowance account by the video gaming agent and interim updates to the marketing plan shall incorporate expenditure of the additional allowance.
- (c) After a marketing plan is approved by the division, the video lottery gaming agent will be permitted to receive reimbursements from the marketing allowance account of such sums equal to the marketing and promotional expenses incurred by such agent in accordance with the approved marketing allowance plan as

expenses are accrued in accordance with generally accepted accounting principles. Reimbursements shall be made in accordance with a schedule approved by the division.

- (d) The video lottery gaming agent shall cause its financial institution to agree that withdrawals shall be permitted from the marketing allowance account only pursuant to a division approved disbursement request. Any withdrawal from the marketing allowance account not in accordance with this provision shall be a violation of the video lottery gaming agent's license, the act and these regulations.
- (e) Each video lottery gaming agent shall submit, or cause to be submitted, monthly a completed marketing plan worksheet documenting or describing the marketing plan implementation by such agent to the division by electronic methods. Such monthly worksheet shall be in such form and be submitted in accordance with a schedule approved by the division.
- (f) The failure of the video lottery gaming agent to submit any monthly worksheet required by this part shall be a violation of such agent's license, the act and these regulations.
- (g) Each monthly worksheet shall contain cross references by date, amount and account codes to the relevant disbursement from the marketing allowance account so that such documentation and or other information can be reconciled with the approved marketing plan.
- (h) (1) The division shall review each scheduled or required report submitted by the video lottery gaming agent and audit the same against the approved marketing plan. Exceptions, discrepancies or questionable spending identified by the division must be explained by the video lottery gaming agent in a timely manner to the satisfaction of the division, but in no event later than thirty (30) days from

the date of the division's initial inquiry. The failure of the video lottery gaming agent to adequately respond to any inquiry of the division shall be a violation of these regulations and may result in division actions to include, without limitation, those described in paragraph (j)(1) of this part.

(2) The video lottery gaming agent shall prepare each report in a professional manner detailing the marketing expenses for which it is seeking reimbursement to ensure that only qualified marketing expenses have been included in such reimbursement request. Qualified marketing expenses are defined in section 2836-18.5 of this part and in guidance documents as may be issued by the division. Should the division determine that the video lottery gaming agent has submitted expenses that do not qualify for reimbursement appropriate penalties may be applied.

(i) The monthly marketing allowance expense report shall, without limitation, summarize the expenditure made from the marketing allowance account and provide details and supporting documentation as determined by the division in evidence of the expenditures from such marketing allowance account.

(j) In the event an expenditure or discrepancy raised by the division cannot be adequately explained by the video lottery gaming agent, or in the event any violation of these regulations remains uncured for a period of one through thirty (30) days, the division, in addition to any other remedy permitted by these regulations, may take any or all of the following actions:

(1) require the video lottery gaming agent to reimburse the marketing allowance account an amount equal to the discrepancy;

(2) reimburse the division for the cost of the division's expenses related to researching and investigating such expenditure or draw against the marketing allowance account.

- (k) Within forty-five (45) days of the end of each quarter for an applicable marketing plan, in the event the monthly marketing expense reports are deemed insufficient at the sole discretion of the division, the division may require a video lottery gaming agent to provide the following information:
- (1) a full and complete reconciliation of the previous quarter's marketing, promotion and associated costs incurred; and
 - (2) an accounting for the cash spending related to the marketing allowance withdrawn from the marketing allowance account.
- (l) Annually each video lottery gaming agent shall provide to the division a report by an independent auditor of the content of the final annual statement of marketing expenses in a type and format prescribed by the division.
- (m) Each video lottery gaming agent shall maintain sufficient documentation to support the reimbursement of any and all of its marketing allowance expenses.

2836-18.5 Permitted marketing and promotion expenses.

- (a) The following qualified marketing expenses incurred by a video lottery gaming agent pursuant to an approved marketing plan under these regulations shall be reimbursable from the marketing allowance account:
- (1) Advertising;
 - (2) Complimentary services;
 - (3) Promotions;
 - (4) Group sales;
 - (5) Direct mail expenditures;
 - (6) Player's club expenses, except as otherwise provided in Section 2836-18.9;
 - (7) Entertainment costs;

(8) Personal Service Costs for the number and type of positions authorized by the division as allowable;

(9) Such other marketing expenses for which advance approval is specifically requested in writing and subsequently approved by the division or otherwise described in official guidance released by the division from time to time and subject to audit by the division.

(b) Nothing in the act or these regulations will be construed as preventing the division to cap allowable marketing, promotion and associated costs in any category of the permitted uses of the marketing allowance.

(c) To the extent that the division believes that marketing allowance expenditures are inconsistent with the purpose and intent of the marketing allowance or marketing plan, the division may issue a cease and desist notice to the video lottery gaming agent in addition to withholding future reimbursements from the marketing allowance account.

(d) Upon receipt of any such cease and desist order issued by the division, the video lottery gaming agent will immediately cease the identified action.

(e) Provided that the video lottery gaming agent has complied with any cease and desist order issued by the division, the video lottery gaming agent may request a hearing on said action pursuant to these regulations.

2836-18.6 Advertising.

(a) Advertising generally.

1. The content or concept of all advertising and any advertisement shall be provided as prescribed by the division.

2. A video lottery gaming agent shall be responsible for all advertising and advertisements that are made by its agents or representatives, regardless of whether the video lottery gaming agent participated directly in its

development, preparation, placement or dissemination.

3. Issuance of a video lottery gaming agent license pursuant to these regulations permits conducting video lottery gaming in a manner approved by the division. Use of any name, logo or design owned by the division or the video lottery gaming machine manufacturers without a valid license may constitute a violation of federal and state copyright and trademark laws. Permitted use of the logo by a licensee must be in compliance with approved guidelines.

(b) Criteria governing advertising.

1. Approved advertising criteria shall be published from time to time by the division.
2. The following practices shall be prohibited with respect to all advertisements:
 - i. The use or statement of any information, representation, or description which contrasts or compares video lottery gaming agents or facilities with regard to total payout.
 - ii. The failure to maintain any offer for the advertised period of availability or in a quantity sufficient to meet reasonably anticipated demand. Should anticipated demand be exceeded, items of equal or greater value may be substituted on notice to the division.

2836-18.7 Complimentary services and items.

(a) Distribution of complimentary services.

1. Neither the video lottery gaming agent nor any third party affiliate or non-affiliate shall offer or provide any complimentary service, item, cash or other item of value to any person except as set forth in the video lottery gaming agent's marketing plan as approved by the division and as provided for in these regulations.

2. The video lottery gaming agent shall establish and maintain a system of internal controls, to be approved by the division, for the authorization and issuance of all complimentary services and items, including cash and non-cash items. Such system of internal controls shall include, without limitation, the procedures by which the video lottery gaming agent may delegate to its employees the authority to approve the issuance of complimentary services and items, the controls in place to ensure complimentary services and items are utilized by those individual's offered such services and items, and the procedures by which conditions or limits placed upon such authority are established and modified, including limits based on relationships between the authorizer and recipient, the relationship between the video lottery gaming facility, the video lottery gaming agent or its principals with the recipient, and shall further include effective provisions for audit purposes.
3. For purposes of determining the level of dollar value of complimentary service to be deemed an acceptable use by the video lottery gaming agent from the marketing allowance account:
 - i. All complimentary services or items, whether or not offered or provided to players in the normal course of the video lottery gaming agent's business, shall be allowable costs under the marketing plan of the video lottery gaming agent at amounts based upon reimbursement rates established by the division;
 - ii. A complimentary service or item provided directly or indirectly to a player on behalf of the video lottery gaming agent by a third party not affiliated with the video lottery gaming agent, shall be recorded at an amount based upon the actual cost to the video lottery gaming agent of having the third party provide such service or item;

4. The video lottery gaming operation shall record both the dollar amount of, and the number of persons provided with, each category of complimentary services or items. The complimentary services shall, at a minimum, be separated into categories for rooms, food, beverage, travel, free-play and other services.
5. Any complimentary service or item, including a complimentary cash or non-cash item, which is issued to a player as part of a complimentary incentive program shall be subject to the requirements of this part and the approved marketing plan. The video lottery gaming agent shall record, on a daily basis, the name of each person provided with a complimentary service(s) or item(s), the category or type of service(s) or item(s) provided, the value (as calculated in accordance with this part or as determined by the division) of the service(s) or item(s) provided to such person, and the signature, title or position and occupational license number of the person authorizing the issuance of such service(s) or item(s). Upon the division's request, a copy of this record shall be immediately submitted to the division. This provision shall not apply to complimentary items of nominal value (e.g. a portion of coffee or soda provided to a player while on the gaming floor) that are offered to all patrons of the video gaming facility without regard to level of play.
6. Notwithstanding any inconsistent provision of this section, the video lottery gaming agent shall not permit any video lottery gaming agent employee to authorize the issuance of a complimentary cash or non-cash item with a value of \$1,000 or more unless the employee is licensed as a key employee and the authorization is co-signed by a second key employee of equal rank as identified in the approved jobs compendium.

7. If the video lottery gaming agent provides complimentary cash or non-cash item(s) worth \$1,000 or more to a player or his or her guests within any five (5) day period, the video lottery gaming facility shall record the profit-based reason why such items were provided and maintain such records available for inspection by the division upon request.
8. The video lottery gaming agent shall submit to the division a report listing each player who has received \$1,000.00 or more in complimentary cash or non-cash item(s) within any five (5) day period ending during the preceding month. Such report shall be filed by the last business day of the following month and shall include the total amount of complimentary cash or non-cash items provided to each person.
9. Notwithstanding any inconsistent provision of this section, no video lottery gaming agent shall permit any employee to authorize the issuance of a complimentary cash or non-cash item(s) with a value of \$5,000 or more unless the video lottery gaming employee is licensed and functioning as the facility manager or assistant facility manager and the authorization is co-signed by a second employee who is functioning as the controller of the video lottery gaming agent.
10. If a video lottery gaming agent provides complimentary cash or non-cash item(s) worth \$5,000 or more to a player or his or her guests within any five (5) day period, the video lottery gaming agent shall record the profit-based reason why such items were provided and maintain such records available for inspection by the division upon request.
11. In instances where complimentary service(s) or item(s) have been issued by or on behalf of the video lottery gaming agent, the video lottery gaming agent

is responsible to comply with all federal, state and local tax reporting and withholding laws and rules for all complimentary service(s) or item(s).

12. No video lottery gaming agent shall offer or provide, either directly or indirectly, any complimentary cash or non-cash item to any player or his or her guests except in accordance with the approved video lottery gaming agent marketing plan and these regulations.
13. All complimentary cash or non-cash item(s) shall be disbursed directly to the player after receipt of appropriate documentation or in any other manner approved in writing by the division in a video lottery gaming agent's internal control submission.

(b) Alternative reporting procedures; accessible complimentary goods or services database.

1. A video lottery gaming agent which records all information concerning complimentary services or items as required above in a computer database which is accessible by the division from remote locations and conforms to standards established and approved in writing by the division pursuant to this section may be exempt from filing the monthly marketing plan reports required by this part.
2. The structure and accessibility of the complimentary goods or services database shall be subject to review and approval by the division and such submission shall include, without limitation, the following:
 - i. A complete description of the computer hardware, file formats and software products to be used;
 - ii. The hours of the day and the days of the week, if any, that the database will be inaccessible on a routine basis due to system maintenance or other technical reasons;

iii. The procedures by which the division will be able to read and copy data files, both current and stored; and

iv. Security procedures for database access and secondary data dissemination.

2836-18.8 Promotions.

(a) Each video lottery gaming agent shall include in the marketing plan a description of each anticipated promotion, the cost of such promotion, the benefit for holding such promotion, the timing of such promotion, and any other information helpful to the division in considering the approval of such promotion.

(b) The actual and necessary costs of each promotion shall be reimbursed from the marketing allowance account as approved by the division.

(c) The video lottery gaming agent shall submit such boards, proposed images to the division as required for any advertising material for any promotion as set forth in guidance documents issued by the division.

(d) The division may require competitive bidding at particular dollar levels of purchasing for any promotion.

2836-18.9 Player rewards club.

(a) Each video lottery gaming agent licensed by the division shall prior to start-up engage the services of a video lottery gaming vendor to provide such facility with a player rewards club system or the agent may provide such system.

(b) Any player rewards club system established pursuant to a marketing plan shall be open to any member of the public who is playing the authorized video lottery game at which the complimentary service is being offered. In addition, any system shall require the video lottery gaming agent to establish and maintain a system of detailed internal control procedures controlling the player rewards club program, prior to its implementation, which procedures shall be maintained by a

designated department approved by the division; provided, however, that if complimentary goods or services will be issued based upon the occurrence of an event that may occur in the normal conduct of a video lottery game, the video lottery gaming agent shall submit for division approval, in writing, a description of the internal control procedure governing the issuance of a complimentary, at least ten (10) days prior to the commencement of the program. Such approval shall be deemed to have been granted if it is not denied, in writing, within the ten (10) day period, and, provided, that such internal control procedures shall address, at a minimum:

- (i) The period of time that the program will be offered. However, nothing herein shall prohibit the video lottery gaming agent from offering a program for an indefinite period of time, subject to termination upon twenty-four (24) hours notice, in writing, to the division;
 - (ii) The video lottery game at which the complimentary good(s) or service(s) will be issued;
 - (iii) The internal control procedures for determining how the winners of the complimentary good(s) or service(s) shall be determined;
 - (iv) A description of the type and value of complimentary good(s) or service(s) that will be issued; and
 - (v) The procedures by which the video lottery gaming agent will pay cash or complimentary good(s) or service(s) or deliver non-cash item(s).
- (c) Each video lottery gaming agent shall provide unrestricted access to all information collected by the player rewards club system to the division and its authorized representatives.

2836-18.10 Non-permitted marketing and promotion expenses.

The following expenses incurred by a video lottery gaming agent shall not be reimbursable from the marketing allowance account under any circumstance:

- (a) Payroll expenses incurred in the ordinary course of operating the video lottery gaming facility that are not marketing related;
- (b) General office equipment and services, such as telephone, office supplies, photocopying, subscriptions, travel and other dues that are not marketing related;
- (c) Except as otherwise permitted by the Act, the actual cost of any management fee paid by the video lottery gaming agent to any vendor engaged to operate the video lottery gaming facility on a daily basis;
- (d) Expenses that are ultimately borne by licensed video lottery terminal vendors;
- (e) Rebates of cash to any vendor, vendee or other third party.

2836-18.11 Competitive bids.

The actual monthly cost of any marketing or promotion expense shall be permitted to be reimbursed from the marketing allowance account as set forth in the approved marketing plan provided that, if applicable, the video lottery gaming agent shall competitively bid any marketing or promotion expense or program in excess of \$50,000 and demonstrate to the division's satisfaction that the cost for such vendor is the lowest available proposal that satisfied the technical requirements of the bid or demonstrated to the division's satisfaction that costs in excess of those of the lowest bidder are outweighed by the benefits of the chosen bidder. Certain sole source and professional services may be excluded from the competitive bid requirements. Any firm or company exempt from competitive bidding must be at arm's length from the facility.

**2836-19 UNDERAGE GAMING; ALCOHOLIC BEVERAGES; FIREARMS;
RESPONSIBLE GAMING; UNDESIRABLE PERSONS**

2836-19.1 Underage gaming violations.

- (a) No video lottery gaming agent, representative, licensed employee or contractor thereof, shall allow, permit or suffer any person under the age of eighteen (18) years ("underage person") to:
- (1) Participate as a player at any game in a video lottery gaming facility;
 - (2) Receive any complimentary service(s) or item(s) as a result of, or in anticipation of, his or her gaming activity.
 - (3) Loiter or remain on the gaming floor longer than reasonably necessary for a legitimate non-gaming purpose or to reach a destination that is not on the gaming floor.
- (b) To insure compliance with this section, each video lottery gaming agent shall post appropriate security personnel at the entrances to the video lottery gaming facility.
- (c) Each violation of any of the provisions of (a) above as to a single underage person shall be considered a separate and distinct violation subject to the penalties that may be imposed by the division as set forth in these regulations.
- (d) Each employee and representative of a video lottery gaming agent shall have an affirmative obligation to ensure that no underage person engages in any of the activities listed in sub-section (a) of this part above. In addition to any penalty which may be imposed by the division against the video lottery gaming agent, each employee or representative of a video lottery gaming agent who violates any provision of this section may be held jointly or severally liable for any such violation.

- (e) The prohibition against underage gaming shall be prominently displayed by the video lottery gaming agent at the video lottery gaming facility, including on each video lottery terminal.

2836-19.2 Underage gaming violations - affirmative defenses.

- (a) No video lottery gaming agent, representative, or employee thereof shall be liable for any underage gaming violation if such person can establish to a fair preponderance of the evidence at a hearing held pursuant to these regulations an affirmative defense in a manner set forth below.
- (b) For purposes of establishing an affirmative defense to an underage gaming violation, the video lottery gaming agent, representative or employee thereof must show that it verified the underage patron's identification and such identification indicated that the underage patron was of lawful age. Additionally, the underage patron must have produced one of the following:
 - (1) A photographic driver's license issued by the laws of a state or other government which appears on its face to be valid for such person in all respects; or
 - (2) A photographic identification card or a similar card issued pursuant to the laws of a state or the federal government which appears on its face to be valid for such person in all respects.

2836-19.3 Alcoholic Beverages.

Nothing in these regulations prohibits the service of alcoholic beverages at a video lottery gaming facility pursuant to a license issued by the state liquor authority.

2836-19.4 Firearms.

No person, including security department personnel, shall possess, or be permitted to possess any firearm within any video lottery gaming facility without the prior express written consent of both the video lottery gaming agent and the division,

including its duly authorized representative, except for duly authorized personnel of each and law enforcement officials required to enter the video lottery gaming facility as part of their official duties. The video lottery gaming agent shall post in a conspicuous location at every entrance to the video lottery gaming facility, a sign stating: "No Person Shall Possess Any Firearm Within This Facility."

2836-19.5 Undesirable or excluded persons.

(a) Any person whether a licensee, participant or patron who is deemed or whose conduct is deemed detrimental to the best interest of video lottery gaming or who is deemed an undesirable person may be expelled from the video lottery gaming facility. In this regard the video lottery gaming agent, on its own initiative, or upon request of the division or its representatives, shall take immediate steps by whatever means are reasonably required to expel such person(s). Acts deemed undesirable shall consist of, but not be limited by, the following:

- (1) Bookmaking or other illegal gambling activities;
- (2) Touting;
- (3) Creating or continuing a public disturbance;
- (4) Disorderly conduct;
- (5) Associating with undesirables;
- (6) Failure to appear when directed to do so by any official of the division in furtherance of an investigation or hearing and to testify under oath concerning any facts within his or her knowledge and produce any books, records, written matter or other evidence within his or her possession or control relevant to such matter.

(b) Nothing contained in this section shall diminish the right of any video lottery gaming agent to exclude any person as a patron or otherwise without reason,

provided such exclusion is not based upon age (except for persons under the age of 18), race, creed, color, national origin, sexual orientation, military status, sex, disability, predisposing genetic characteristics or marital status.

- (c) Excluded persons shall immediately be provided with a notice of exclusion. A report, which shall include a copy of the exclusion notice and a photograph of the excluded subject, in a format approved by the division or its designee, will be retained at the video lottery gaming facility for the period of exclusion and a copy shall be provided within twenty-four (24) hours of exclusion to the division or its designee.

2836-19.6 Responsible gaming and self-exclusion.

- (a) Each video lottery gaming agent shall establish a responsible gaming program pursuant to guidelines established by the division within ninety (90) days of the commencement of operations at the video lottery gaming facility, which plan shall comply with these regulations.
- (b) Announcements encouraging responsible play shall be displayed by the video lottery gaming agent in all video lottery gaming areas as well as the reception and cashier areas.
- (c) Responsible gaming information shall be prominently displayed by the video lottery gaming agent at the video lottery gaming facility, and problem gambling information shall be posted on each video lottery gaming agent's website and on each video lottery terminal.
- (d) The video lottery gaming agent's responsible gaming plan will provide for employee training for responsible gaming.
- (e) Any person may voluntarily exclude himself or herself from the video lottery gaming facility for a period of either one (1), three (3), or five (5) years, under penalty of trespass upon violation, by submitting a written request to the video

lottery gaming agent in accordance with this section.

- (1) Such request may be submitted in person at the offices of the video lottery gaming agent. Any person requesting exclusion in person shall present valid identification credentials containing the person's signature and either a photograph or a general description of that person.
 - (2) Such request may also be submitted by mail addressed to the chief operating officer of the video lottery gaming agent. Any request for exclusion which is submitted by mail shall be signed before a notary public or other person empowered by law to take oaths and shall contain a certificate of acknowledgment by such notary public or other person attesting to the identity of the person making the request.
- (f) A request for exclusion shall be in a form prescribed by the division, which shall include the following:
- (1) The name of the person requesting exclusion;
 - (2) The address of the person's residence;
 - (3) The person's date of birth;
 - (4) The period for which the person is requesting exclusion;
 - (5) The signature of the person requesting exclusion, indicating acknowledgment of the following statement: "I certify that the information which I have provided above is true and accurate. I am aware that my signature below authorizes the video lottery gaming agent to authorize my exclusion from the video lottery gaming facility until the expiration of the exclusionary period I have requested. I understand that if found within the video lottery gaming facility after having been voluntarily excluded, I will be subject to arrest for criminal trespass if I refuse to be escorted from the facility. Further, I authorize the video lottery gaming agent to send a copy of my request to

each video lottery gaming facility located within New York State.”;

(6) If the request for exclusion is made in person:

- (i) The type of identification credentials examined containing the person's signature, and whether said credentials included a photograph or general description of the person; and
- (ii) The signature and occupational license number of a video lottery gaming employee authorized to accept such request, indicating that any physical description or photograph of the person appears to agree with his or her actual appearance.

(7) If the request for exclusion is made by mail, a certificate of acknowledgment executed by a notary public or other person empowered by law to take oaths attesting to the identity of the person who is making the request for exclusion.

(g) Should the excluded person be found within the video lottery gaming facility by the division, surveillance, security, video lottery gaming facility department or any employee of the video lottery gaming agent, and the patron has refused to be escorted from the facility, then a law enforcement agency shall be immediately notified and requested to effectuate an arrest of the excluded patron for criminal trespass. Employees of the video lottery gaming agent and the division or its duly authorized representative shall be empowered to swear the complaint against the excluded person.

(h) The video lottery gaming agent shall maintain an updated master list of all persons who have requested exclusion pursuant to this part, and shall notify the division in writing of any additions to, or deletions from, the list.

(1) The video lottery gaming agent shall exclude any listed person, effective

immediately, upon receipt of notice that such person's name has been added to the list.

- (2) An updated master list of persons who have requested exclusion shall be maintained by the surveillance, security and video lottery gaming facility departments of the video lottery gaming agent.
 - (3) The video lottery gaming agent shall note any exclusion pursuant to this section in a file for the person requesting exclusion, including the following:
 - (i) A copy of any applicable video lottery gaming agent notice of the exclusion; and
 - (ii) The date, time, signature and employee license number of the video lottery gaming agent representative making the exclusion entry in that file.
 - (4) Copies of all such materials required to be maintained in the file shall be forwarded to the division quarterly.
- (i) The video lottery gaming agent shall not divulge any name on the master list of excluded persons, other than to authorized surveillance, security or video lottery gaming department employees or other video lottery gaming personnel whose duties and functions require access to such information, and the division or its duly authorized representatives.
 - (j) Neither these regulations nor any of the rights, duties, or obligations established hereunder, shall create any cause of action, right of action, claim, or other right whatsoever in favor of any person against the state, the division, any video lottery gaming agent or any of its representatives or employees. Each person applying for placement on the List of Excluded Persons shall execute a full and complete Waiver/Release on a form provided by the division releasing the state, the division, any video lottery gaming agent or any of its representatives or

employees from any liability associated with the acts relating to this provision.

- (k) Notwithstanding the foregoing, if the video lottery gaming agent has in place a plan or system of voluntary self-exclusion in satisfaction of regulations promulgated by the New York State Racing and Wagering Board, then said plan or system shall satisfy the requirements of this section.

2836-20 CONDUCT AND OPERATION OF VIDEO LOTTERY GAMING

2836-20.1 General definitions, qualifications, restrictions, validations and regulations applying to video lottery gaming.

- (a) Within a time period specified by the division following the issuance of a winning voucher to a player by a video lottery terminal, the player may redeem his or her voucher at the video lottery gaming facility where the winning voucher was issued; thereafter the winning voucher may be redeemed only at a customer service center operated by the division.
- (b) All prizes evidenced by a voucher must be claimed within one (1) year of the issuance of a voucher.
- (c) Voucher responsibility:
- (1) Vouchers are bearer instruments.
 - (2) Neither the division nor the video lottery gaming agent shall be liable for payment of:
 - (i) Lost or stolen vouchers;
 - (ii) Vouchers claimed by a player in error for a lower prize;
 - (iii) Vouchers that are not intact;
 - (iv) Vouchers that are mutilated, altered, reconstituted, counterfeit in whole or in part, or tampered with in any manner, or mis-cut; or
 - (v) Vouchers that have not been issued in an authorized manner, or are mis-registered, defective, or printed or produced in error.
- (d) To be valid, a voucher must pass all additional confidential and security

validation tests of the division.

- (e) Any voucher which does not conform to the requirements of this section shall be considered null and void.
- (f) No video lottery gaming ticket shall be sold to or purchased by, and no video lottery gaming prize shall be paid to, any of the following persons:
 - (1) Any officer or employee of the division; or
 - (2) Any principal or key employee, except as may be permitted by the division for good cause shown; or
 - (3) Any video lottery gaming or non-gaming employee at the video lottery gaming facility that employs such person and at any other video lottery gaming facility controlled by that agent; or
 - (4) Any licensee, registrant, contractor, subcontractor, or consultant, or officer or employee of a contractor, subcontractor, licensee, registrant or consultant, if such person is directly involved in the operation of video lottery gaming, the operation or observation of video lottery gaming or drawings, or the processing of video lottery gaming prize claims or payments; or
 - (5) Any person subject to a contract with the division if such contract contains a provision prohibiting such person from purchasing a video lottery gaming ticket or receiving a video lottery gaming prize; or
 - (6) Any spouse, child, brother, sister or parent residing as a member of the same household in the principal place of abode of any of the foregoing persons at the same video lottery facility or facilities where the foregoing person is prohibited from purchasing a video lottery gaming ticket or collecting a video lottery gaming prize. This section shall not be deemed to prohibit the sale of a video lottery gaming ticket or the payment of a

video lottery gaming prize to an officer or employee of the division or a video lottery gaming agent or to a contractor, subcontractor, or consultant or to an officer or employee of a contractor, subcontractor, or consultant if such sale or prize payment is not for the individual benefit of such person and is made in connection with an official investigation, audit, or other activity authorized by the director.

- (7) The restrictions of this subdivision shall not apply to an employee of a video lottery gaming agent that is not licensed by the division.
- (8) Nothing in this section shall prohibit a video lottery gaming agent from establishing a policy that is stricter than the standards described in this subdivision.
- (g) The director may at any time, in his or her sole discretion, announce a termination date for any game, subsequently recommence any game, or extend termination or closing dates for any game. When a game is terminated, no further video lottery gaming tickets shall be sold.
- (h) In purchasing a video lottery gaming ticket, the video lottery gaming player agrees to comply with and abide by all laws, these regulations, policies and procedures, and final decisions of the division, as well as procedures established by the director for the conduct of any game.
- (i) No video lottery gaming agent may extend credit or financial assistance to permit the purchase of video lottery gaming tickets.

2836-20.2 Display of rules of play.

- (a) Each video lottery gaming terminal vendor shall be responsible for displaying the rules of play for a video lottery terminal on the face or screen of the video lottery terminal or be capable of such display at the player's option through use of an easily-accessible "help" screen.

- (b) The rules of play for a particular video lottery terminal game shall be evaluated and approved by the division. The division may reject the rules if it is determined that the rules are incomplete, conflicting, confusing, or misleading.
- (c) The rules of play for a particular video lottery terminal game shall not be altered without prior approval of the division.
- (d) Stickers or other removable devices shall not be placed on the face of the video lottery terminal unless their placement is approved in writing or required by the division.

2836-20.3 Credit redemption.

- (a) Available credits may be collected through the printing of a voucher from the video lottery terminal by the player pressing the appropriate button at any time other than when:
 - (1) A game is being played;
 - (2) The terminal is in audit mode;
 - (3) Any door is open;
 - (4) The terminal is in test mode;
 - (5) A meter incrementation is in progress, unless the entire amount is recorded on the meters when the collect button is pressed; or
 - (6) There is an error condition.
- (b) When any prize won at a video lottery terminal exceeds the threshold for reportable lottery winnings established by the Internal Revenue Service, the video lottery terminal shall print a voucher which shall only be redeemable at an attended validation terminal. The attendant at such validation terminal shall obtain personal identifying information from the prize winner for tax reporting purposes.

- (c) When any prize won at a video lottery terminal exceeds \$2,000, or such other amount determined and published by the division, the video lottery terminal shall enter a lock up state and an attendant shall be called to verify, initiate and witness the printing of the voucher and shall document same.

2836-20.4 Validation of vouchers.

Validation and payment by voucher as a method of credit redemption shall be permissible only by a division approved device that is linked to the central system that permits validation of such voucher. Validation approval or related information shall be generated by the central system in order to validate tickets. Vouchers may be validated only at locations approved in writing by the division.

- (a) A prize form shall be filed in the name of a single legal entity as claimant, either one (1) individual or one (1) organization. Multiple payees are not permitted, except as may be authorized pursuant to subsection (c) of this part below.
- (b) If a claim is erroneously entered with multiple claimants, the claimants shall designate one of them as the individual recipient of the prize, or, if they fail to designate an individual recipient, the division may designate any one of the claimants as the sole recipient. In either case, the claim shall then be considered as if it were originally entered in the name of the designated individual and payment of any prizes won shall be made to that single individual.
- (c) Under exceptional circumstances, payment may be made to multiple payees at the discretion of the division.

2836-20.5 Discharge of State liability upon payment.

The State and its agents, officers, employees, the division and the director and its agents, officers and employees and video lottery gaming agents and their agents,

officers, employees shall all be discharged of any and all liability upon payment of a prize.

2836-20.6 Testing and certification of video lottery gaming systems.

The central system, video lottery terminals and associated equipment used in the conduct of video lottery gaming, or a prototype thereof, shall be tested and approved as the division shall require.

2836-20.7 Maintenance, repair and servicing of video lottery terminals.

- (a) The video lottery gaming vendor shall not alter the operation of any approved video lottery terminal or associated equipment and shall ensure that each video lottery terminal and associated equipment is maintained in proper working condition.
- (b) Only the following persons may service or repair a video lottery terminal or associated equipment:
 - (1) A duly licensed video lottery gaming vendor;
 - (2) A licensed employee of a video lottery gaming vendor;
 - (3) A licensed technician certified by a video lottery gaming vendor; or
 - (4) A licensed employee of a video lottery gaming agent who may be assigned to clean the exterior of the video lottery terminal, to reload printer paper and ink, and to clear bill acceptor jams.
- (c) It shall be the ongoing duty of each video lottery gaming vendor to maintain and provide an inventory of spare parts to assure the timely repair and continued, approved operation and play of video lottery terminals. Each video lottery gaming vendor shall provide to the division, if requested, appropriate technical assistance and training in the service and repair of its video lottery terminals and associated equipment so as to ensure the continued, approved operation and play of those video lottery terminals.

- (d) Each video lottery gaming vendor shall immediately notify the division of any recurring video lottery terminal malfunction or other problem experienced with approved video lottery terminals.
- (e) Each video lottery gaming vendor must maintain a certification program for the purpose of training and certifying technicians to service and repair video lottery terminals manufactured by such vendor. Upon request, such vendor shall provide evidence of such program to the division, including a full description of the program, models of video lottery terminals for which training is provided, criteria for certification, information concerning instructor qualifications, and copies of training materials and tests. Any program deemed insufficient by the division shall be modified upon request.
- (f) Each video lottery gaming vendor shall ensure that its technicians have received sufficient and appropriate training in the service and repair of each of its approved video lottery terminal models before any video lottery terminal may be placed in operation in the video lottery gaming facility.
- (g) Each video lottery gaming vendor that certifies other persons as technicians shall ensure that such technicians have received sufficient and appropriate training in the service and repair of the approved video lottery terminals to be operated by the video lottery gaming agents, or to be distributed by a licensed video lottery gaming vendor employing the technician. Such training shall meet the requirements of subsection (e) of this part above.
- (h) Upon request of the division, a certified technician, or a video lottery gaming vendor employing the technician, shall provide proof satisfactory to the division of the technician's certification, in accordance with subsection (e) of this part above.
- (i) The video lottery gaming vendor shall ensure that all service and repairs on

- its video lottery terminals, including the installation or repair of component parts such as bill acceptors, monitoring systems, or other parts that may alter the current or subsequent operation of a video lottery terminal, are made correctly and in compliance with these standards and any additional division requirements.
- (j) Except for certified technicians, as defined herein, no employee of the video lottery gaming agent or any other person may perform service on or repair any video lottery terminal or associated equipment other than incidental maintenance repairs which cannot affect any of the video lottery terminals major systems or require that the person performing the service or making the repair access any internal space within a video lottery terminal or any of its associated equipment.
 - (k) The exterior door keys shall be issued, on a per shift basis, only to personnel qualified under subsection (b) of this part above to maintain the terminals. When exterior door keys are not in use, they shall be maintained in a locked box designed for the purpose of securing the keys, access to which shall be controlled and maintained by the department identified in the approved internal control system.
 - (l) Each video lottery gaming vendor shall maintain a written maintenance log inside the main cabinet access area of each video lottery terminal. Every person who gains entry into any internal space of a video lottery terminal for performing physical maintenance or repair must sign the maintenance log, record their employee license, indicate the date and time of entry and list all areas inspected, repaired or serviced. Such vendor(s) shall retain the maintenance log for a period of five (5) years and shall make the maintenance log immediately available to the division upon request.

2836-20.8 Inventory Storage.

Each video lottery gaming agent shall allow each video lottery gaming vendor access to a secure area for the inventory storage of terminal parts. Inventory and replacement parts may be maintained off premises within the state at an approved location. The location of this secured area is subject to the approval of the division.

2836-20.9 Hours of Operation.

The hours of operation of video lottery gaming at all licensed video lottery gaming facility locations shall be twenty consecutive hours per day, unless otherwise approved by the division in writing after a sixty (60) day written application is made by the video gaming agent. In no event shall video lottery gaming be conducted past 4:00 a.m. Public access to the video lottery gaming floor must be restricted at all times video lottery gaming is not in operation. The failure of the video lottery gaming agent to comply with the hours of operation set forth in this part shall be a violation of these regulations.

2836-21 VIDEO LOTTERY TERMINAL COMPONENT STANDARDS

2836-21.1 Terminal identification requirements.

(a) Each video lottery terminal machine shall have a permanent metal identification number which shall be mounted in a manner that does not permit its removal without leaving evidence of tampering. Such identification number shall be permanently affixed to the machine by its manufacturer in a location on the exterior of the cabinet approved in writing by the division. In addition to the identification number, the tag mounted to the video lottery terminal machine shall contain the following information:

- (1) The manufacturer;
- (2) A unique serial number;
- (3) The video lottery terminal model number; and

- (4) The date of manufacture.
- (b) The video lottery gaming agent shall affix a label approved by the division to the video lottery terminal that permits identification by surveillance of terminal location and terminal number.

2836-21.2 Video lottery terminal drop boxes.

- (a) The video lottery terminal drop boxes shall be secured by a lock on the main door to the video lottery terminal, a lock on the currency compartment door, and a lock on the drop box, located in the currency compartment. Each lock shall be keyed differently from the other. The keys to the main door lock shall be maintained and controlled by a video lottery gaming agent employee. The key to the lock securing the currency compartment area, which key shall be different from the keys securing the contents of the drop box, shall be maintained and controlled by the video lottery gaming agent security department. Access to the key for the lock to the currency compartment area shall be gained only by a supervisor in that department.
- (b) Each drop box shall have an affixed or adhered clear visible label containing letters, numbers or a barcode corresponding to the location of the video lottery terminal to which it is attached, except that emergency drop boxes may be maintained without such marking, provided the word "emergency" is affixed or adhered thereon and, when put into use, are temporarily marked with the location of the video lottery terminal.

2836-21.3 Voucher standards.

- (a) Vouchers shall provide the following information regarding each voucher printed which can be obtained from the video lottery terminal, an interface board, the central system, or another means approved in writing by the division:

- (1) Value of credits in local monetary units in numerical form;
 - (2) Time of day the video lottery gaming ticket was printed;
 - (3) Date, in any recognized format, indicating the day, month, and year;
 - (4) Unique validation number, and/or barcode; and
 - (5) Video lottery gaming agent location.
- (b) A division approved system shall be used to validate the voucher, and the video lottery gaming ticket information recorded by the central system shall be retained for at least as long as the voucher is valid at that location, or as otherwise required by the division.

2836-22 SHIPMENT; POSSESSION LIMITATIONS

2836-22.1 Transportation of video lottery terminals into, within and out-of-State.

- (a) Prior to the transport or movement of any video lottery terminal from one authorized location to another authorized location within, or out of, the state, a video lottery gaming vendor or other person causing such video lottery terminal to be transported or moved shall first notify the division in writing using the division approved shipment form.
- (b) No delivery of video lottery terminals or equipment shall be made to a video lottery gaming agent facility unless and until that facility has been issued a license to engage in video lottery gaming.

2836-22.2 Possession of video lottery terminals.

- (a) Except as otherwise provided in these regulations or specifically authorized in the law, no person shall possess within this state any video lottery terminal, associated video lottery gaming equipment or similar device.
- (b) The following persons and any employee or agent acting on their behalf may, subject to any terms and conditions imposed by the division, possess video lottery terminals in this state for the purposes provided herein, provided that

the video lottery terminals are kept only in such locations as may be specifically approved in writing by the division and that any terminals located outside of a licensed video lottery gaming facility not be used for gambling activity:

- (1) An applicant for or holder of:
 - (i) A video lottery gaming agent license, for the purpose of maintaining for use or actually using such video lottery terminal in the operation of a licensed video lottery gaming facility;
 - (ii) A gaming vendor license, for the purpose of manufacturing, distributing, repairing or servicing video lottery terminals;
- (2) A common carrier, for the purpose of transporting such video lottery terminal;
- (3) An employee or agent of the division, for the purpose of fulfilling official duties or responsibilities;
- (4) An educational institution operating pursuant to the state education law and/or pursuant to the state labor law for the purpose of training technicians in the service and repair of video lottery gaming equipment; or
- (5) Any other person the division may approve after finding that possession of video lottery terminals by such person in this state is necessary and appropriate to fulfill the goals and objectives of the act and these regulations.

2836-23 SURVEILLANCE AND SECURITY

2836-23.1 Closed circuit television system; surveillance department control; surveillance department restrictions.

- (a) Each video lottery gaming agent shall install and/or permit the installation of in its video lottery gaming facility a closed circuit television (CCTV) system according to specifications approved and issued by the division, and shall provide unfettered access to the system or its signal by the division. Separate secure space, with adequate heating, ventilation, air-conditioning and lighting shall be

provided by the video lottery gaming agent to house necessary surveillance consoles and other monitoring equipment as well as related staff. Each video lottery gaming agent, and each member of its surveillance department, shall timely comply with all requests from the division.

- (b) Entrances to the closed circuit television monitoring rooms shall not be visible from the public areas of a video lottery gaming facility.
- (c) For a facility equipped with a camera console, the security department shall only be permitted to view the feed from cameras in food and beverage areas or other areas located outside a building in which the gaming floor is located. Notwithstanding the foregoing, the security department may have access to a limited view of the gaming floor if such view is approved in writing by the division's internal audit unit.
- (d) Each video lottery gaming agent shall have a surveillance department manager and a security department manager on duty at the video lottery gaming facility at all times.

2836-23.2 Emergency procedures.

Before a video lottery gaming agent has operated a video lottery gaming facility for ninety (90) days, the video lottery gaming agent shall submit to the division, the State law enforcement agency, local police department, and the local fire department, an emergency action plan for the response to, and management of, fire and medical emergencies and natural disasters in all areas of the video lottery gaming facility and related enterprises. Such plan shall include procedures for notification of the State law enforcement agency, local police department, the local fire department or emergency medical personnel, or both, and procedures for expedited and unimpeded access of the personnel into all areas of the video lottery gaming facility or related enterprise in the event of a fire, medical, or other

emergency. Such plan shall also include an inspection schedule allowing the New York Department of State, State law enforcement agency, local police department and local fire department personnel to inspect all areas of the video lottery gaming facility and related enterprises for compliance with applicable fire and emergency laws, codes and ordinances.

2836-23.3 Credit; banking services at the video lottery gaming facility.

- (a) The video lottery gaming agent may place a duly authorized automated teller machine (ATM) within a video lottery gaming facility at a location approved by the division.
- (b) A video lottery gaming agent may offer check cashing services or provide cash to a player in exchange for a valid charge or cash advance against a recognized credit card account or recognized debit card account only if the agent has developed internal control procedures detailing the conditions and circumstances under which such practice will be allowed, and has provided copies of such internal control procedures to the division no later than thirty (30) days prior to the offering of cashing services.
- (c) Nothing in these regulations shall prohibit the sale of dining and other non-gaming patron amenities through the use of a commercially available credit, debit or charge card, nor shall a video lottery gaming agent be prohibited from entering into a contract with a person licensed under the state banking law to cash checks or otherwise provide banking services within the state.

2836-23.4 Cashiers' cage, satellite cages; standards.

- (a) Each video lottery gaming facility shall have on or immediately adjacent to the gaming floor a physical structure known as a cashiers' cage ("cage") to house the cashiers and to serve as the central location in the video lottery gaming facility for the following:

- (1) The custody of the cage inventory comprising currency and forms, documents, and records normally associated with the operation of a cage;
 - (2) The receipt, distribution, and redemption of vouchers in conformity with these regulations; and
 - (3) Such other functions normally associated with the operation of a cashier's cage.
- (b) The cage shall be designed and constructed to provide maximum security for the materials housed therein and the activities performed therein. Such design and construction shall be, at a minimum, as effective as the following:
- (1) Manually triggered silent alarm systems for the cage, its ancillary office space and any related video lottery gaming facility vault, which systems shall be connected directly to the monitoring rooms of the closed circuit television system and the video lottery gaming security department office;
 - (2) Double door entry and exit system that will not permit a person to pass through the second door until the first door is securely locked; and
 - (i) The first door of the double door entry and exit system adjacent to the video lottery gaming floor shall be controlled. The second door of the double door entry and exit system shall be controlled;
 - (ii) The double door entry and exit system shall have closed circuit television coverage which shall be monitored during all hours of operation by the video lottery gaming surveillance department;
 - (iii) Any entrance to the cage that is not a double door entry and exit system shall be an alarmed emergency exit door only.
 - (3) The video lottery gaming shall identify in its internal control procedures which department will be responsible for controlling these points of access and shall include procedures for managing the security of these points of

access.

- (c) Each video lottery gaming facility may also have one or more "satellite cages" separate and apart from the cashiers' cage, but adjacent to areas of video lottery gaming operation, established to maximize security, efficient operations, or player convenience and comfort and designed and constructed in accordance with these regulations. Subject to division approval, a satellite cage may perform any or all of the functions of the cashiers' cage. The functions which are conducted in a satellite cage shall be subject to the applicable accounting controls set forth in these regulations.
- (d) Each video lottery gaming agent shall file with the division the names of all persons having control of the entrance to the cage, any satellite cages, and vaults, as well as all persons able to operate alarm systems for the cage, any satellite cages and vaults.
- (e) Whenever the division or the internal controls of a video lottery gaming agent require or authorize documents to be transported from the cashiers' cage to a satellite cage or from a satellite cage to the cashiers' cage or another satellite cage, the video lottery gaming agent shall, unless the division or internal control provides otherwise, transport the documents through the use of a video lottery gaming security department representative.
- (f) Notwithstanding any other provision of the regulations to the contrary, any video lottery gaming agent that operates two or more video lottery gaming areas within the facility that are physically connected in a manner deemed appropriate by the division may, with the prior written approval of the division, operate a single cashiers' cage in one of those video lottery gaming areas to serve as the central location for the functions set forth in (a) above for all of the video lottery gaming areas; provided, however, that the video

lottery gaming agent shall be required to operate such satellite cages in each video lottery gaming area as the division may deem necessary.

2836-23.5 Accounting controls for the cashiers cage, satellite cages.

- (a) The assets for which the general cashiers are responsible shall be maintained on an imprest basis. The imprest balance of each general cashier's bank will be identical and such balance will be the same at the end of the shift as it at the beginning of the next shift.
- (b) At the opening of every shift, in addition to the imprest funds normally maintained by the general cashiers, the video lottery gaming agent shall have on hand in the cage or readily available thereto, a reserve cash bankroll in a minimum amount approved in writing by the division.
- (c) The cashier's cage and any satellite cage shall be physically segregated by personnel and function as follows:
 - (1) General cashiers shall operate with individual imprest inventories of cash and such cashiers functions shall include, but are not limited to, the following:
 - (i) Receive cash, vouchers, cash equivalents, complimentary gifts;
 - (ii) Receive reserve cash cashiers documentation with signatures thereon, required to be prepared for the effective segregation of functions in the cashiers' cage;
 - (iii) Prepare forms for the completion of payments for video lottery gaming prizes;
 - (2) Reserve cash (main bank) cashiers functions shall include, but are not limited to, the following:
 - (i) Receive cash, vouchers, and cash equivalents from general cashiers in exchange for cash;

- (ii) Receive cash from the count room;
 - (iii) Prepare the overall cage reconciliation and accounting records;
 - (iv) Prepare the daily bank deposit for cash;
 - (v) Receive from general cashiers, documentation with signatures thereon, required to be prepared for the effective segregation of functions in the cashiers' cage;
 - (vi) Be responsible for the reserve cash bankroll;
 - (vii) Receive unsecured currency from accounting department representatives;
- (d) Signatures and employee license numbers of those attesting to the accuracy of the information contained on the Cashiers' Count Sheet shall be, at a minimum, of the following cashiers after preparation of the Cashiers' Count Sheet:
- (1) The general cashiers assigned to the incoming and outgoing shifts; and
 - (2) The reserve cash cashiers assigned to the incoming and outgoing shifts;
- (e) At the end of each gaming day, at a minimum, a copy of the Cashiers' Count Sheets and related documentation shall be forwarded to the accounting department for agreement of opening and closing inventories, agreement of amounts thereon to other forms, records, and documents required by these regulations.

2836-23.6 Count room; characteristics.

- (a) The video lottery gaming facility shall have, adjacent to the cashiers' cage a room, an area to be known as the "count room," specifically designated, designed and used exclusively for counting unverified cash.
- (b) The count room shall be designed and constructed to provide maximum

security for the materials housed therein and for the activities conducted therein. The video lottery gaming agent shall design and construct a count room with, at a minimum, the following security measures:

- (1) A metal door or door of other construction approved by the division installed on each entrance and exit;
 - (2) Each entrance and exit door shall be equipped with:
 - (i) Two (2) separately keyed locks; and
 - (ii) An alarm device, approved in writing by the division, which audibly signals the surveillance department and the security department whenever a door to the count room is opened;
 - (3) Each lock required by subsection (b)(2)(i) of this part above shall be controlled by a key which is different from:
 - (i) The key to the other lock on that door;
 - (ii) The keys to the locks securing the contents of each drop box;
 - (4) The key to one of the locks required by subsection (b)(2)(i) of this part above shall be maintained and controlled by the security department in a secure area within the security department, access to which may be gained only by a security department supervisor, and the key to the other lock shall be maintained and controlled by the video lottery gaming department; and
 - (5) The security department shall establish an internal control procedure approved in writing by the division regarding the signing-out of all keys removed from the security department.
- (c) Located within the count room shall be:
- (1) A table constructed of clear glass or similarly clear material used for the emptying, counting, and recording of the contents of drop boxes which

shall be known as the "count table";

(2) Closed circuit television cameras and microphone wired to the surveillance department capable of, but not limited to, the following:

(i) Effective and detailed audio-video and/or digital monitoring and recording of the entire count process; and

(ii) Effective, detailed video or digital monitoring and recording of the interior of the count room, including storage cabinets or trolleys used to store bill acceptor drop boxes; and

(iii) No disposal containers or such shall be allowed at any time in the room.

2836-23.7 Drop boxes, transportation to and from video lottery terminals; storage.

(a) Each video lottery gaming agent shall place on file with the division a schedule setting forth the specific times at which the drop boxes will be brought to or removed from the bill acceptors in video lottery terminals. Each video lottery gaming agent shall also maintain and make available to the division upon request, the names and employee license numbers of all employees participating in the transportation of such drop boxes. If the division requires that a division representative be present for transportation of drop boxes, no drop box shall be brought to or removed from any video lottery terminal or removed from any bill acceptor at other than the time specified in such schedule except with the express written approval of the division. Notwithstanding the foregoing, the video lottery gaming agent may develop and utilize a plan for removing the drop boxes from the terminals under exigent circumstances. If a video lottery gaming agent alters procedures for removing drop boxes due to unforeseen exigent circumstances, the video lottery gaming agent must timely notify the division of

the reasons for the change in procedures and the details of how the drop boxes were removed.

(b) Except as otherwise provided in (b)(3) below, all drop boxes removed from video lottery terminals shall be transported directly to and secured in the count room by at least one (1) video lottery gaming security department member.

(1) Upon its removal from a video lottery terminal, a drop box shall be immediately placed in an enclosed trolley which is secured by two (2) separately keyed locks. The key to one lock shall be maintained and controlled by a video lottery gaming department member. The key to the second lock shall be maintained and controlled by the video lottery gaming security department in a secure location. Access to the video lottery gaming security department's key shall be limited to supervisors in that department and shall be controlled, at a minimum, by a sign-out and sign-in procedure approved in writing by the division. The video lottery gaming security department key shall be returned to its secure location immediately upon the completion of the collection and transportation of the drop boxes.

(2) Prior to the movement of any trolley containing drop boxes from the video lottery gaming floor, a video lottery gaming supervisor shall verify in writing that the number of drop boxes being removed from the gaming area equals the number of drop boxes that have been loaded on the trolley, and that the lock controlled by the video lottery gaming security department has been activated. If a trolley is being transported from the gaming floor to the count room, a video lottery gaming supervisor shall also verify that the gaming department lock on the trolley has been activated.

(3) A drop box being replaced by an emergency drop box shall be transported directly to and secured in the count room by at least one video lottery gaming

security department member and one video lottery gaming supervisor, and the use of a trolley shall not be required.

- (c) Except as provided in (d) below, all drop boxes not attached to a video lottery terminal, including emergency drop boxes which are not actively in use, shall be stored in the count room or other secure area outside the count room approved in writing by the division, in an enclosed storage cabinet or trolley and secured in such cabinet or trolley by a separately keyed, double locking system. The key to one lock shall be maintained and controlled by the video lottery gaming security department and the key to the second lock shall be maintained and controlled by a video lottery gaming department employee. Access to the video lottery gaming security department's key shall be limited to a supervisor of that department.
- (d) Notwithstanding (c) above, the supervisor of the video lottery gaming security department may, immediately prior to the commencement of the count process, issue the key to the storage cabinet or trolley to a count room supervisor for the purpose of gaining access to the drop boxes to be counted. Any key removed from the video lottery gaming security department shall be returned immediately following the conclusion of the count of the drop boxes and the return of any empty emergency drop boxes to their respective storage cabinet or trolley. The video lottery gaming security department shall establish a sign-out and sign-in procedure approved in writing by the division for all such keys removed. Each video lottery gaming agent which permits the video lottery gaming security department key to be issued to a count room supervisor shall submit for review and written approval internal control procedures governing the control over the key when the count team takes a break.

2836-23.8 Opening, counting and recording of drop box contents.

- (a) The contents of the drop boxes shall be counted and recorded in the count room in conformity with this section unless the division has expressly approved in writing an alternative plan submitted by the video lottery gaming agent. Under no circumstances shall the video lottery gaming agent conduct counting and recording of the drop box contents in a manner which does not comply with the one set forth in these regulations or one that has been expressly approved in writing by the division.
- (b) The video lottery gaming agent shall place on file with the division the specific times during which the drop boxes are to be removed from video lottery terminals and the specific times during which the contents of the drop boxes are to be counted and recorded. Drop boxes shall be removed from video lottery terminals and be counted and recorded with sufficient frequency to allow daily electronic funds transfers of all money owed to the division and the state, including tax and other withholdings, as applicable.
- (c) The opening, counting, and recording of the contents of drop boxes shall be performed in the presence of a count room supervisor. To gain entrance to the count room, an employee shall present a video lottery gaming credential with photograph.
- (d) All persons present in the count room during the counting process shall wear a full-length short-sleeve (mid-forearm), one-piece pocketless outer garment with openings only for the arms, feet, and neck, unless another type of garment is approved in writing by the Division.
- (e) No person present shall:
 - (1) Carry a pocketbook or other container unless it is transparent; or
 - (2) Remove his or her hands from or return them to a position on or above the

count table unless both the backs and palms of his or her hands are first held straight out and exposed to the view of other members of the count team and the closed circuit television camera.

(f) Immediately prior to the commencement of the count:

- (1) The doors to the count room shall be securely locked;
- (2) A count team member shall notify a person assigned to the surveillance department closed circuit television monitoring room that the count is about to begin, after which such person shall make an audio-video and/or digital recording, with the time and date inserted thereon, of the entire counting process, which recording shall be retained by the surveillance department for at least twenty-one (21) days from the date of recordation unless otherwise directed in writing by the division; and
- (3) The count room supervisor or his or her supervisor shall record, in writing, the name and employee license number of each person who shall participate in the counting process and whether each such individual is scheduled to:
 - (i) Be present in the count room during the entire counting process;
 - (ii) Enter the count room during the counting process; or
 - (iii) Leave the count room prior to the conclusion of the counting process.

(g) No person shall be permitted to enter or leave the count room during the counting process, except in an emergency, unless his or her name is on the written notice required by subsection (f)(3) of this part above.

- (1) If the video lottery gaming agent permits a member of the count team to enter or leave the count room during the counting process, any employee remaining in the count room shall be required to display his or her hands in accordance with subsection (e) of this part above and to step away from the count table until the count team member has entered or left the count room.

- (2) The counting and recording process shall be discontinued whenever less than three (3) count team members are present in the count room.
 - (3) Once the counting process has been started, the count room supervisor shall be required to notify the surveillance department closed circuit television monitoring room whenever a count room door will be opened, prior to the opening of such door.
- (h) Procedures and requirements for conducting the count shall be as follows:
- (1) As each drop box is placed on the count table, one count team member shall orally announce, in a volume of voice to be heard by all persons present and to be recorded by the audio-video and/or digital recording device, the game, video lottery terminal number, and shift marked thereon for drop boxes;
 - (2) In full view of the closed circuit television cameras located in the count room, the contents of each drop box shall be emptied on the count table and either manually counted separately on the count table or counted on a currency counting machine and is located in a conspicuous location on, near or adjacent to the count table;
 - (3) Immediately after the contents of a drop box are emptied onto the count table, the inside of the drop box shall be held up to the full view of a closed circuit television camera and shall be shown to a second employee to assure that all contents of the drop box have been removed. The drop box shall then be locked and placed in the storage area for drop boxes approved in writing by the division;
 - (4) The contents of each drop box shall be segregated by a count team member into separate stacks on the count table by each denomination of currency by type, record or document, except that the division may permit the utilization of a machine to sort currency automatically by denomination;

(5) Each denomination of currency shall be counted separately by one count team member who shall place individual bills of the same denomination on the count table in full view of a closed circuit television camera, after which the currency shall be counted by a second count team member who shall be unaware of the result of the original count and who, after completing this second count, shall confirm the accuracy of the total, either orally or in writing, with that reached by the first count team member, except that the division may permit the video lottery gaming agent to perform aggregate counts by denomination of all currency collected in substitution of the second count by drop box, if the division is satisfied that the original counts are being performed automatically by a machine that counts and automatically records the amount of currency, and that the accuracy of the machine has been suitably tested and proven. The division may permit the utilization of currency counting machines if prior to the start of the first use of the counting machine each gaming day, except for subsection (h)(5)(i) and (ii) of this part below, the count room supervisor shall:

- (i) Verify that the counting machine has a zero balance on its terminal unit display panel and has a receipt printed which denotes "-0- cash on hand" and "-0- notes in machine," or some other means to indicate that the machine has been cleared of all currency;
- (ii) Visually check the counting machine to be sure there are no bills remaining in the various compartments of the machine;
- (iii) Supervise a count team member who shall randomly select a drop box and place the entire contents of that drop box into the first counting machine, which shall count the currency by denomination and produce a print out of the total amount of currency by denomination. Any soiled or

off-sorted bills shall be re-fed into the machine and manual adjustments shall be made to the total. The total as recorded on the counting machine and any adjustments made thereto shall not be revealed to anyone until the final verification process is completed;

(iv) Supervise a second count team member, independent of the team member performing the initial count by machine, who shall manually count and summarize the currency from each drop box counted in accordance with subsection (h)(5)(iii) of this part above. This total shall be posted and maintained separately from the total posted in subsection (h)(5)(iii) of this part above, and shall not be revealed to anyone until the final verification process is completed;

(v) Supervise the second count team member's passing of the currency to a count team member, who shall be unaware of the results of the manual count. The count team member shall count the contents of that drop box counted in subsection (h)(5)(iii) of this part above using a second counting machine. Such machine shall produce a printout of the total amount of currency contained in the drop box. Any soiled or off-sorted bills shall be re-fed into the machine and manual adjustments shall be made to the total. The total as recorded on the counting machine and any adjustments thereto shall not be revealed to anyone until the final verification process is completed;

(vi) Following the completion of the test procedures, compare the totals from the test receipts of both counting machines, as computed in subsection (h)(5)(iii) and (h)(5)(v) of this part above, to the manual total computed in subsection (h)(5)(iv) of this part above. If the three totals compared above are in agreement, the count room supervisor shall sign and date

and record his or her employee license number on his or her test receipts and forward them to the accounting department at the end of the count process;

(vii) If the three totals do not agree, appropriate repairs shall be made to the counting machine and the procedures in subsection (h)(5)(i) through (h)(5)(vi) of this part above shall be repeated until all totals are in agreement. The counting machine shall not be used until these totals are in agreement.

(6) As the contents of each drop box are counted, a count team member shall manually record or cause a computer system to record, in a manner approved in writing by the division, the following information on the master game report or other supporting documentation by video lottery terminal identification number:

(i) The amount of each denomination of currency counted;

(ii) The amount of all denominations of currency counted;

(iii) The gaming date of the items being recorded and the date the Master Gaming Report is being prepared or generated.

(7) After the contents of each drop box are counted and recorded, a member of the count team shall manually record or cause the computer to record on the master game report, by game, the total amount of currency together with such additional information as may be required on the master game report by the division or the video lottery gaming agent.

(8) Notwithstanding any inconsistent requirements above, if the video lottery gaming agent's system of internal controls provides for the count team functions to be comprised only of counting and recording currency, the video lottery gaming agent's accounting department employees shall perform all

other counting, recording and comparing duties required by this section.

(9) After preparation of the master game report, the count team members performing the banking functions and the count room supervisor shall sign and record their employee license number on the reports attesting to the accuracy of the information recorded thereon. All other count team members shall either sign and record their employee license number on the master game report or such other document as approved in writing by the division as evidence of their participation in the counting of the drop boxes. Any person who, in accordance with subsection (f) of this part above, is scheduled to leave the count room prior to the completion of the entire count process, shall also sign and record his or her employee license number and shall record the time that he or she exited the count room. Any person who enters or leaves the count room due to an emergency shall sign and record their name, employee license number, and time of the entry or exit on the master game report, or such other document as approved in writing by the division, except that, if the person exiting the count room is unable to sign the document due to the nature of the emergency, the count room supervisor shall record the person's name, employee license number, the time of exit and a notation describing the emergency on the document.

(i) After the contents of all drop boxes have been counted:

(1) All cash shall be presented in the count room by a count team member to a main bank cashier or cage supervisor who, prior to having access to the information recorded on the master game report and in the presence of a count team member shall recount, either manually or mechanically, the cash presented and attest by signature and employee license number on the master game report the amounts of cash counted, after which the employee

shall sign the report evidencing his or her presence during the count and the fact that both the cashier or cage supervisor and the count team have agreed on the total amounts of cash counted. The video lottery gaming agent may, if approved in writing by the division, present the main bank cashier or cage supervisor with the cash obtained from the count of the drop boxes either:

(i) At the same time, in which event the cash shall be presented immediately after both counts have been concluded; provided, however, that the video lottery gaming agent shall set forth in its system of internal controls the procedures for segregating and securing the cash from the first count that is concluded until presented to the main bank cashier or cage supervisor after the conclusion of the second count; or

(ii) Separately, in which event the cash from each count shall be presented immediately after the conclusion of the count; provided, however, that if the cash from the first count that is concluded is presented while the second count is in progress:

(a) There shall be no cash in the count room removed from an opened box that has not already been counted at least once; and;

(b) All count room employees shall be required to step away from the count table until the presentation is completed and the cash and promotional coupons from the first count are removed from the count room.

(2) The master game report, after signing, shall be transported directly to the accounting department and shall not be available to any cashiers' cage personnel.

(j) In addition to the procedures for conducting the count by the count team set forth

under paragraphs (h)(4), (5) and (6) above, and the procedures for conducting the recount by a main bank cashier or cage supervisor set forth under paragraph (i)(1) above, in the event of a variance attributable to intermixed denominations of cash, an adjustment shall be made to the master game report reflecting the amount and source (identified to a video lottery terminal) of such variance.

(k) The originals and copies of the master game report shall, on a daily basis, in the accounting department be:

(1) Compared for agreement with each other, on a test basis if the originals are received from the count room, by persons with no recording responsibilities and, if applicable, to triplicates or stored data;

(2) Reviewed for the appropriate number and propriety of signatures on a test basis;

(3) Accounted for by series numbers, if applicable;

(4) Tested for proper calculation, summarization, and recording;

(5) Subsequently recorded; and

(6) Maintained and controlled by the accounting department as a permanent accounting record.

2836-23.9 Delivery station specifications.

(a) The video lottery gaming agent shall provide a secure structure for all of the following purposes:

(1) armored car cash deliveries;

(2) armored car cash pickups; and

(3) the delivery and pickup of other valuables as may be needed from time to time.

(b) The structure shall be designated the "secured delivery station" and shall be covertly surveilled and monitored during all hours of operation. One-on-one

continuous surveillance shall be conducted when deliveries and pickups are made.

- (c) A secured delivery station shall comply with all the following provisions:
- (1) Be located out of the general view of patrons, non-surveillance employees, and non-security employees;
 - (2) Have a garage door that is electronically controlled from the Surveillance Room; and
 - (3) Have a secure room between the secured delivery station and the gaming facility. The room shall have secure doors with bulletproof glass that are programmed so that both doors cannot be open at the same time, and neither door can open unless the garage door to the secured delivery station is closed and secured.
 - (4) Have color cameras and monitors which are in compliance with the specifications for surveillance equipment in these regulations which survey and monitor activities in all of the following areas:
 - (i) The secured delivery station;
 - (ii) The secured room immediately adjacent to the secured delivery station;
 - (iii) The area outside the garage door to the secured delivery station; and
 - (iv) The area inside the gaming facility.
- (d) Surveillance personnel shall advise security officers and other video lottery gaming agent personnel in advance of deliveries and pick-ups so the officers and personnel can provide foot escorts to and from secured areas within the video lottery gaming facility. Delivery personnel who are not duly licensed and authorized video lottery gaming agent employees shall not be allowed to enter the secured areas, or restricted areas of the video lottery gaming

facility without an escort.

**2836-24 COLLECTION, DISTRIBUTION AND AUTHORIZED USE OF
CAPITAL AWARDS**

2836-24.1 Video lottery gaming agent receipt of capital awards.

- (a) In accordance with the act, there shall be made available to each video lottery gaming agent from the daily video lottery gaming revenue generated at each video lottery gaming facility a capital award to be used exclusively for capital project investments to improve the facilities of the vendor track which promote or encourage increased attendance at the video lottery gaming facility, including, but not limited to, hotels, other lodging facilities, entertainment facilities, retail facilities, dining facilities, events arenas, parking garages and other improvements that enhance the facility amenities; provided that such capital investments shall be approved by the division, in consultation with the racing and wagering board, and that such agent demonstrates that such capital expenditures will increase patronage at such agent's facilities and increase the amount of revenue generated to support state education programs.
- (b) Except as provided in the act, each agent shall be required to co-invest an amount of capital expenditure equal to its cumulative vendor's capital awards. The amount of any vendor's capital award that is not used during any one (1) year period may be carried over into subsequent years ending before April 1, 2013. In the event that a vendor track's capital expenditures, approved by the division prior to April 1, 2013 and completed prior to April 1, 2015, exceed the vendor track's cumulative capital award during the five year period ending April 1, 2013, the vendor track shall continue to receive the annual capital award after April 1, 2013 until such approved capital

expenditures are paid to the vendor track subject to any required co-investment.

- (c) Any agent which has received a vendor's capital award, choosing to divest the capital improvement toward which the award was applied, prior to the full depreciation of the capital improvement, in accordance with generally accepted accounting principles, shall reimburse the state in amounts equal to the total of any such awards.
- (d) Any capital award not approved for a capital expenditure at a video lottery gaming facility by April 1, 2013 shall be deposited in the state lottery fund for education aid.
- (e) All such capital improvement and expenditures shall be subject to the overall supervision of the division.

2836-24.2 Deposit of capital awards.

- (a) The division shall make available to each video gaming agent, through the daily remittance process, the appropriate capital award. Each agent shall be responsible to deposit the capital award daily to a segregated account restricted for the collection and authorized use of such funds.
- (b) Each agent receiving capital award funds shall provide monthly bank statements for the segregated capital awards account to the division for independent verification of capital award deposits and reimbursement withdrawals from the account.
- (c) The division is not responsible for the loss or theft of any money in any account to which capital award funds are deposited.

2836-24.3 Capital improvement plan.

- (a) Each agent eligible for capital award funds shall prepare a capital improvement plan for the video lottery gaming facility. The capital

improvement plan shall provide sufficient detail to describe anticipated capital projects for which the agent will seek reimbursement from the capita award. Such capital improvement plan shall be submitted electronically to the division for review, and may be amended by the agent from time to time as planned capital projects are modified.

- (b) Each capital improvement plan, without limitation, shall briefly describe, in narrative form, the capital improvement projects the video gaming facility plans to commence during the five (5) year period ending April 1, 2013, which are to be completed prior to April 1, 2015.
- (c) Capital improvements plans shall be due to the division on a date prescribed by the division. The failure to submit any capital improvement plan when due to the division shall be a violation of the agent's license, the act and these regulations.

2836-24.4 Capital improvement plan implementation and award reimbursement.

- (a) Prior to the commencement of each capital award improvement project, the agent shall submit to the division a request for project approval in a standard format as prescribed by the division. Such request shall:
 - (1) Describe the overall capital project, including the reasons for implementing the project, the estimated total project cost, and the estimated start and completion date for the project; and (2) Describe, how the capital project will increase attendance at the video gaming facility and increase the amount of revenue generated in support of education aid;
- (b) Payment from capital award funds shall only be approved by the division for capital project construction or improvements commenced on or after April 1,

2008, or the portion of a project completed after April 1, 2008 for projects, or phases of projects, commenced before April 1, 2008.

(c) Not later than fifteen (15) days from receipt of a capital project request for approval, the division shall review the request, in consultation with the Racing & Wagering Board, and provide its approval or denial of the project. Each project shall qualify as an approved use of the capital award if it meets the following guidelines:

(1) The capital project includes the addition of tangible, permanent assets in the form of land, buildings, or equipment; or the project includes the restoration of such existing assets.

(2) Project assets purchased or restored, are to be used in the operation of video gaming and are expected to have a useful life of two (2) years or more, providing a reasonable benefit throughout the assets useful life.

(3) The capital expenditure is of significant value, consistent with standard accounting policies for the recording of capital assets.

(4) The capital project will increase patronage at the video gaming facility and increase the amount of revenue generated to support education aid.

(5) The capital project will be completed prior to April 1, 2015.

(d) Approval of the capital project by the division shall entitle the agent to subsequent reimbursement from the capital award for associated costs of the approved project, for which the agent obtains substantiation that the costs are reasonable within the industry for the size and scope of the project. Competitive bidding shall be required for all single component project costs in excess of \$50,000, provided however that certain sole source and

- professional services, such as architectural and engineering services and construction manager services where the construction manager does not perform construction work themselves, may be excluded from the competitive bid requirements. Any firm exempt from competitive bidding must be at arm's length from the facility.
- (e) In the event the division does not approve the capital project request, the agent shall be so notified in writing and any costs incurred for the project shall be the sole responsibility of the video gaming facility and shall not be reimbursable from the capital award.
 - (f) Upon receiving the division's approval of a capital project, the agent may at any time submit requests for reimbursement of costs associated with the approved project. Such request shall be submitted in writing to the division and shall be accompanied by supporting documentation in the form of invoices and cancelled checks, or other documents as may be required to show proof of payment for capital expenditures associated with the approved project. Upon receiving the division's approval of a reimbursement request, the agent shall be authorized to withdraw the approved funds from the segregated capital award account.
 - (g) The division or its representative may, at its discretion, review the books and records of the agent, to determine additional needs for assurance regarding utilization of the capital award. Each agent shall maintain sufficient documentation and a clear audit trail to support the reimbursement of any and all capital awards.
 - (h) The failure of the agent to submit any report required by this part shall be a violation of such agent's license, the act and these regulations. In addition to any other remedy available to the division pursuant to these regulations, any

failure of the agent to submit any report as required by this part shall permit the division to withhold the capital award until such time as such report is submitted and approved. The division may release such capital award with such continuing restrictions as the division determines to be appropriate pursuant to these regulations.

- (i) Exceptions, discrepancies, or questionable spending identified by the division must be explained by the agent in a timely manner to the satisfaction of the division, but in no event later than thirty (30) days from the date of the division's inquiry. A failure by the video lottery gaming agent to adequately respond to any inquiry of the division shall be a violation of these regulations.
- (j) The agent shall prepare each report in a professional manner detailing the use of capital awards. Appropriate penalties may be applied if the division determines that the agent has submitted expenses that do not qualify as a capital expense.
- (k) In the event an expenditure or discrepancy raised by the division cannot be adequately explained by the agent, or in the event any violation of these regulations remains uncured for a period of up to thirty (30) days, the division, in addition to any other remedy permitted by these regulations, may take any or all of the following actions:
 - (1) withhold the capital award or any portion thereof, in which event no further payment shall be permitted until such violation is cured;
 - (2) deny the cost and deduct the amount thereof from the balance of any next succeeding capital award;
 - (3) require the agent to reimburse the division for the capital award in an amount equal to the discrepancy;

- (4) reimburse the division for the cost of the division's expenses related to researching and investigating such expenditure.
- (l) In the event any expense reports are deemed insufficient at the sole discretion of the division, the division may require an agent to provide the following information:
 - (1) a full and complete reconciliation of the capital improvement expenses and associated costs incurred; and
 - (2) an accounting for the cash spending related to the capital improvement funds.
- (m) Each agent shall maintain sufficient documentation to support the reimbursement of any and all of its capital improvement expenses.