

## **TITLE 9. EXECUTIVE DEPARTMENT**

### **SUBTITLE T. NEW YORK STATE RACING AND WAGERING BOARD**

#### **CHAPTER V. BINGO**

##### **SUBCHAPTER A. GENERAL PROVISIONS**

###### **PART 5800. DEFINITIONS**

###### § 5800.1 Definition of terms

As used in this Subtitle, the following terms shall have the following meanings:

(a) Admission card or package shall mean the card or cards issued to a player upon the payment of an admission fee not to exceed five dollars that entitles the player to at least one opportunity to participate in all regular games of bingo during a single bingo occasion.

(b) Bingo control law shall mean article 19-B of the Executive Law.

(c) Bingo licensing law shall mean article 14-H of the General Municipal Law.

(d) Card or sheet shall mean a bingo opportunity comprised of a reusable card or disposable sheet of paper bearing one or more face-cards. The word on describes the number of face-cards printed on a card or sheet, and is preceded by the number of face-cards appearing on that card or sheet. For example, a three-on (or 3-on) is a single card or sheet bearing three face-cards.

(e) Clerk of the municipality shall mean the clerk of the town or village duly authorized to issue licenses pursuant to the Bingo Licensing Law. In the case of a city, it shall mean the clerk of the particular department of the city government duly authorized to issue licenses pursuant to the Bingo Licensing Law.

(f) Department shall mean the New York City Department of Consumer Affairs.

(g) Double-header shall mean a session of bingo in which two successive licensed bingo occasions are conducted by the same licensed authorized organization, provided that not more than thirty minutes time shall elapse between the calling of the last numbered ball in the first licensed occasion and the calling of the first numbered ball in the second occasion.

(h) Early bird, also known as share the wealth or split pots shall mean a special game that is

conducted no more than twice during any single licensed occasion in which a fixed percentage of the receipts from the sale of early bird opportunities is awarded as a prize. The prize awarded in the conduct of an early bird game, which cannot exceed seventy-five percent of the sales receipts, is not subject to the prize limitations imposed by subdivisions 5 and 6 of section 479 and paragraph (a) of subdivision 1 of section 481 of the General Municipal Law, or section 5820.25 of this Title. The price for a one-on opportunity to participate in any early bird game shall not exceed one dollar. Early bird opportunities bearing more than one face-card may be priced at the discretion of the licensed authorized organization, provided one-on early bird cards are offered for sale simultaneously at a price of one dollar, or less.

(i) Electronic bingo aid shall mean any electronic hardware device or electronic system, whether fixed or portable, or any software used in conjunction with a common computer, designed to assist sight-impaired players and others in the playing of bingo.

(j) Extra regular card shall mean a card or sheet that is sold separately from an admission card that provides a player with an additional opportunity to participate in a regular bingo game or games.

(k) Face-card shall mean the twenty-five-squared grid comprised of five rows of five equally sized squares that are marked by the player during the conduct of bingo, which may have the letters B,I,N, G and O printed horizontally across the top. Each square, with the exception of the center square which shall be designated as a free space, shall bear a number ranging from one to seventy-five, inclusive, none of which shall be repeated on the same face-card. The free space shall bear the face-card number (also known as the manufacturer's permutation number or perm-number) which identifies the unique configuration of numbers assigned to each face-card by the licensed bingo manufacturer for comparison and verification of winning calls of bingo. The provisions of this Subsection shall not apply to supercards, quick bingo cards or player select cards.

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

(m) Gross receipts shall mean receipts from the sale of all bingo opportunities, including those sold via electronic bingo aids.

(n) Jackpot game shall mean the final game of a bingo occasion.

(o) Lawful purposes shall mean one or more of the following causes, deeds or activities:

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

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

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

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

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

(p) Limited period bingo shall mean the conduct of bingo by a licensed authorized organization, for a period of not more than 7 of 12 consecutive days in any one year, at a festival, bazaar, carnival or similar function conducted by such licensed authorized organization. No authorized organization licensed to conduct limited period bingo shall be otherwise eligible to conduct a regular bingo occasion in the same calendar year.

(q) Occasion shall mean a single licensed period in which an aggregate of prizes not to exceed three thousand dollars is awarded in a series of at least 10 bingo games (or a combination of bingo games and subparts of multiple-part bingo games in which ten separate prizes are awarded), provided not more than 35 successive bingo games are played. During double header and triple header sessions, at least one of the occasions shall be comprised of 10 bingo games (or

a combination of bingo games and subparts of multiple-part bingo games in which ten or more separate prizes are awarded). A licensed authorized organization may offer fewer than 10 games per occasion during multiple successive occasions if at least one of the session's occasions is comprised of at least 10 bingo games. In the case of limited period bingo, the series of games played during an occasion shall not exceed 60 in number.

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

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

(t) Player select shall mean a bingo game in which a player, at least fifteen minutes prior to the commencement of that game, purchases a blank player select card and enters the numbers of his or her choice in the blank spaces on such card. Each number shall be between one and seventy-five, inclusive, and no number shall be repeated on the same player select card. Prizes are awarded to those players whose selected numbers match those drawn by the licensed authorized bingo operator during a designated player select game, in accordance with section 5820.49 of this Title.

(u) Pre-drawn bingo shall mean a bingo game conducted by a licensed authorized organization in accordance with section 5820.51 of this subtitle, in which a pre-determined number of bingo balls are pre-picked at random from the receptacle. Pre-drawn bingo games shall be conducted using only Board-approved disposable, tear-open or sealed bingo opportunities, which shall be constructed in such a manner, and of such material, so as to prevent the viewing of the numbers printed thereon until the purchasing player opens the opportunity by tearing off perforated edges or otherwise breaking a secured seal enclosing the face-card, in accordance with section 5820.51 of this Title. All bingo opportunities used in pre-drawn games shall be marked with standard indelible ink daubers. The pre-drawing of the numbers shall begin not more than forty-five minutes prior to the start of the game, and shall not begin unless there are a number of players

equal to at least ten percent of the bingo seating capacity present to verify the integrity of the pre-drawing of the numbered balls.

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

(w) Quick bingo game is a special game conducted in conjunction with a scheduled regular or special bingo game pursuant to section 5820.52 of this Title, in which specially constructed quick bingo cards are sold and marked by the players with standard indelible ink daubers. Quick bingo cards are sealed by the manufacturer and, when opened by the player, reveal a grid comprised of either nine spaces formed by three rows of three spaces, or sixteen spaces formed by four rows of four spaces, each space bearing a bingo number ranging from one to seventy-five, provided no number is repeated on the same quick bingo face-card and the type-face of each number is sufficiently large to mark with a standard indelible ink dauber.

(x) Regular bingo game shall mean: 1) a game, regardless of the pattern required to win, that is played on a card or cards issued to a player upon payment of an admission fee not to exceed five dollars; and 2) a bingo game conducted during a licensed occasion other than a limited period bingo occasion.

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

(z) Special bingo game shall mean a bingo game that cannot be played using either an admission card or an extra regular card, where the opportunities to participate in a special game (known as specials) must be purchased separately from admission cards and extra regular cards. The purchase of an opportunity to participate in a special game is optional; if a player wants to participate in a special game, he or she must purchase a special for each game.

(aa) Session shall mean a single gathering in which one, two, or three licensed bingo occasions are conducted consecutively by the same authorized organization, provided not more than thirty minutes time shall elapse between the first and second occasions, nor between the second and third occasions.

(ab) Supercard shall mean a bingo card selected by a player that contains five designated

numbers corresponding with the letters B, I, N, G and O displayed on the bingo display board, which is played concurrently with other bingo cards or opportunities during a bingo game, pursuant to section 5820.48 of this Title.

(ac) Tri-color bingo is a game using disposable bingo opportunities comprised of three different colored face-cards, wherein a different dollar amount is offered as a prize for each of the three colors, conducted pursuant to section 5820.56 of this Title.

(ad) Triple-header shall mean a session of bingo in which three successive licensed bingo occasions are conducted by the same licensed authorized organization, provided not more than thirty minutes time shall elapse between the first and second occasions, nor between the second and third occasions.

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

(af) Bonus ball is a special bingo game conducted in accordance with Section 5820.57 of this subtitle that is played in conjunction with one or more regular and/or special bingo games that have been designated by the licensed authorized organization on its application for bingo license and on the bingo program required by Section 5820.39 of this subtitle as "Bonus Ball Games" and in which a "Bonus Ball Prize" is awarded to the player acquiring the designated winning bingo pattern when the last number called and marked by that player is identical to the "Bonus Ball Number".

## **PART 5801. DELEGATION OF AUTHORITY -- POWER TO SUPERSEDE OR SUSPEND OPERATION OF RULES**

### **§ 5801.1 Notification to Racing and Wagering Board**

Where the governing body of a municipality delegates to an officer or officers the responsibility and authority granted to it pursuant to the Bingo Licensing Law, the governing body shall give the Racing and Wagering Board notice of the following on form BC-110 as prescribed by the board: the name or names of the officer or officers and their successor and

successors, the effective date of the appointment or appointments, the duration of the appointment or appointments, immediate notice if the designation or designations are revoked or modified, the nature of the responsibility and authority delegated in detail and any subsequent modification or revocation of such responsibility and authority, and such other information as may be required by the Racing and Wagering Board.

#### 5801.2 Time for filing

Notice of such delegation of responsibility and authority, modifications or revocations thereof, must be filed with the Racing and Wagering Board within three days after the date of such delegation.

#### 5801.3 Power to supersede or suspend operation of the rules

The board may, by written order or directive, supersede or suspend the operation of any of its rules or regulations when, in its judgment, such action is necessary to insure the public interest, convenience or necessity or the best interest of the conduct of bingo.

### **PART 5802. INSPECTION**

#### § 5802.1 Information available to public

Applications for registration and identification numbers, bingo license applications and annexed schedules, findings and determinations for bingo licenses, financial statements of bingo operations, all papers on appeals, final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases, those statements of policy and interpretations which have been adopted by the Racing and Wagering Board and any documents, memoranda, data or other materials constituting statistical or factual tabulations which led to the formulation thereof, minutes of meetings of the Racing and Wagering Board, minutes of public hearings, audits and statistical or factual tabulations made by or for the Racing and Wagering Board, administrative instructions to staff that affect members of the public, final determinations and dissenting opinions of members of the Racing and Wagering Board, and any other files, records, papers or documents required by any other provision of law to be made available for public inspection and copying, shall be open to the public for inspection and copying at the offices of the Racing and Wagering Board, Albany, N.Y., or at the office of the clerk of the municipality where filed in accordance with the regulations adopted by such municipality for public access.

#### 5802.2 Procedure for inspection and copying

All records available for inspection and copying shall be located at the offices of the Racing and Wagering Board, Albany, N.Y., and obtained from the administrator during regular business hours upon written notice to be received by the administrator at least 48 hours prior to the date requested for the inspection and copying.

#### 5802.3 Fees

The fees for the copies of information shall be 50 cents per page. The fee for certification of each document shall be \$ 2. The fee for the search for a document which has been filed with the Racing and Wagering Board in excess of two years shall be \$ 5 and will be made available for inspection and copying no less than seven days after the receipt of the request.

#### 5802.4 Inspection of personnel records

An itemized record setting forth the name, address, title and salary of every member and employee of the Racing and Wagering Board shall be available in the offices of the Racing and Wagering Board, Albany, N.Y., by the administrator during regular business hours for inspection to bona fide members of the news media upon written notice to be received by the administrator at least 48 hours prior to the date requested for the inspection, which request shall be upon a form prescribed by the Comptroller of the State.

### **SUBCHAPTER B. REGISTRATION AND LICENSING**

#### **PART 5810. REGISTRATION AND IDENTIFICATION**

##### § 5810.1 Application requirements

Every authorized organization desiring to apply for a license to conduct bingo shall register with the Racing and Wagering Board and secure an identification number before making any such application. An application for an identification number shall be made on form BC-1A as prescribed by the board. Any organization which possesses an identification number but has not been licensed to conduct bingo for a period of one year must file with the Racing and Wagering Board a new form BC-1A prior to making application for a bingo license.

## 5810.2 Information to be furnished

(a) Every organization desiring to register and to receive an identification number shall set forth in writing to the Racing and Wagering Board the following information: the name of the organization; if a corporation, the type, where incorporated and when; if an association, whether incorporated or not; if incorporated, where and when; whether the organization is doing business under a trade name; a copy of the charter and bylaws; if incorporated, the articles of incorporation and the bylaws; if a charitable organization, the Department of Social Services registration number; the number of members; whether regular meetings are held and when; whether the organization maintains one or more bank accounts, if so, names and addresses of all such banks; bank where the organization intends to maintain its "special bingo account"; name of officer who would have responsibility for the utilization of all monies derived from the conduct of bingo; whether there are annual elections of officers; whether the organization has a board of directors or similar governing body and how often they meet; a statement as to whether the organization operates without profit to its members; a statement as to whether the organization has engaged in serving one or more of the lawful purposes as defined in the Bingo Licensing Law and this Chapter for a period of one year immediately prior to applying for a license; a specific, detailed statement as to what the organization intends to do with all monies derived from the conduct of bingo; and any additional information which may be required by the Racing and Wagering Board.

(b) This application must be signed as follows: if a religious organization or an affiliate thereof, by the priest or pastor or the president or chairman of the board of directors of the congregation, synagogue or temple; if a charitable organization or an affiliate thereof, by the president; if an organization of veterans, by the commander; if an organization of volunteer firemen or an affiliate thereof, by the president. Notwithstanding the above, it is the intention of this section that the legally responsible official of the applicant organization shall sign in his representative capacity.

## 5810.3 Organizations required to register

Every authorized organization, affiliate or auxiliary thereof, seeking to conduct or assist in the conduct of bingo pursuant to the Bingo Licensing Law, ordinance or local law and this Chapter, shall register with the Racing and Wagering Board and secure an identification number.

#### 5810.4 Validity of identification number

The identification number shall be valid until suspended, revoked or surrendered. The Racing and Wagering Board may suspend the identification number of any registered organization which has not been licensed to conduct bingo during four consecutive months and should such suspension be imposed, the organization concerned shall request reinstatement prior to making application for a bingo license.

#### 5810.5 Form for registration

After the furnishing of the information required by the Racing and Wagering Board, registration shall be upon form BC-1, as prescribed by the board.

#### 5810.6 Registration as evidence of eligibility

A municipality shall make its own investigation and determination of an applicant organization's eligibility for a license to conduct bingo, as required by the Bingo Licensing Law, notwithstanding the issuance of an identification number by the Racing and Wagering Board.

#### 5810.7 Use of identification number

All applications for licenses, amendment of licenses, reports and any other papers relating to bingo shall bear the identification number of the organization.

#### 5810.8 Limit on identification numbers and licenses issued

When an organization has more than two affiliates or auxiliaries, no identification number or license shall be issued to more than three such organizations.

#### 5810.9 Membership lists

Every licensee must maintain a current membership list, which shall be available for inspection at all reasonable times. The Racing and Wagering Board and the municipal governing body may require any organization registered with it to file such a membership list, indicating thereon the

current officers and directors, and file supplementary lists of additions and deletions in order to keep the master list up to date.

## **PART 5811. BINGO LICENSES: APPLICATIONS**

### § 5811.1 Form for application

An application for a bingo license shall be made on form BC-2, as prescribed by the board.

### 5811.2 Premises to be used for conduct of bingo

(a) In case the applicant intends to lease premises for the conduct of bingo from other than a licensed authorized organization, the application shall set forth the name and address of the licensed commercial lessor of such premises and the capacity or potential capacity, for public assembly purposes, of space in any premises owned or occupied by the applicant.

(b) Where the applicant does not own the premises intended for use, and the clerk of the municipality has notified the applicant that its request to lease premises has been approved, a duplicate original of the lease executed by the applicant and lessor must be furnished to both the clerk of the municipality and the Racing and Wagering Board. Any amendment or change in the terms or conditions of the lease shall be in writing and furnished in the same manner as the duplicate original lease, within seven days of the date the amendment or change is made.

### 5811.3 Schedules

Form BC-2 and accompanying schedules 1 to 7 must be executed and verified. Where a license has expired (see section 5812.7 of this Title) and an application for another license is made, form BC-2 shall be used together with schedules 1 to 7. However, where a license is to be amended and there is no change in the contents of any particular schedule from the schedules previously filed, a statement to that effect shall appear in the application and those schedules may be omitted.

### 5811.4 Where application is filed

A license application shall be filed in triplicate with the clerk of the municipality. One copy shall be retained by the clerk of the municipality, a copy shall be delivered forthwith to the local

law enforcement agency, and one copy shall be forwarded to the Racing and Wagering Board by the clerk of the municipality.

#### 5811.5 Conditions for accepting application

No application shall be accepted unless it bears the identification number assigned by the Racing and Wagering Board and is accompanied by the license fee.

#### 5811.6 License register

The clerk of the municipality shall keep a license register on form BC-8, as prescribed by the board.

#### 5811.7 Reinstatement of license

When a license has been suspended or revoked and the suspension or revocation is set aside and the license reinstated, the original license shall not be reissued. In such case the applicant shall file a new application and a new license shall be issued.

#### 5811.8 Cancelled bingo occasions

If a bingo occasion is cancelled by the licensee due to an unforeseen occurrence or extreme weather condition, the Racing and Wagering Board or the municipality which issued the license may, in its discretion, and if notified on the next business day following the scheduled occasion, permit said licensee to reschedule the cancelled occasion within a reasonable time without payment of an additional fee. The licensee must apply for the rescheduled date(s) in accordance with Part 5813 of this Title.

#### 5811.9 Refund of license fee

(a) The following shall be the grounds for the payment of a refund on account of a license fee paid pursuant to the provisions of the Bingo Licensing Law:

(1) In the event that an application for a license or an application to amend a license is not

granted, the fee paid with such application shall be returned to the applicant. An application for such refund may be made within one year of the denial of the application for a license or the application to amend a license.

(2) In the event that a licensee of a license issued pursuant to the provisions of the Bingo Licensing Law shall voluntarily discontinue the conduct of bingo for which such license was issued, the unused portion in excess of \$ 50 of paid license fees shall be refunded. An application for such refund may be made within one year of the voluntary discontinuance of the conduct of bingo for which such license was issued.

(3) In the event that a licensee of a license issued pursuant to the provisions of the Bingo Licensing Law shall relocate to another municipality, the unused portion in excess of \$ 50 of paid license fees shall be refunded to such licensee. An application for such refund may be made within one year of the relocation of such licensee to another municipality.

(b) Any refund made pursuant to this section shall be paid from license fees collected pursuant to the provisions of the Bingo Licensing Law or from other moneys lawfully appropriated for such purpose.

(c) This section shall apply to all refunds arising from applications filed or license fees issued on and after November 1, 1974.

## **PART 5812. BINGO LICENSES: ISSUANCE**

### **§ 5812.1 Approval by municipality**

Upon investigation by the municipal governing body and approval of a license application or an amendment of a license, the duly authorized officer of the municipality shall record the findings and determination in duplicate on form BC-4, "Findings and Determination for Bingo License" as prescribed by the board.

### **5812.2 Period within which to make findings and determination**

At least seven days shall elapse between the time the original application is filed and the time when the municipal governing body makes its findings and determination.

### 5812.3 Issuance by clerk

A copy of the findings and determination of the municipal governing body shall be sent to the clerk of the municipality who shall issue the license if the application is approved. If the application is not approved, the clerk of the municipality shall give due notice to the applicant in writing of a hearing to be held upon the qualifications of the applicant and the merits of the application. A copy of such notice shall be furnished the Racing and Wagering Board.

### 5812.4 Time when copies must be received by racing and wagering board

One copy of the "Findings and Determination for Bingo License" together with two copies of the application must be received by the racing and wagering board at least five days prior to the holding of the first game authorized.

### 5812.5 License form

The clerk of the municipality shall issue a license on form BC-5 as prescribed by the board. In the case of limited period bingo the clerk shall enter thereon the charge for a single opportunity to participate in one game.

### 5812.6 Distribution of copies by clerk

The clerk of the municipality shall prepare the license in triplicate, issuing the original to the licensee, retaining a copy and forwarding a copy to the local law enforcement agency.

### 5812.7 Time during which license is effective

No license for the conduct of any game of bingo shall be effective for a period of more than one year from the date of original issuance. No license, after its issuance, shall be amended so as to render it valid beyond a period of one year from the date of its original issuance. In the case of limited period bingo, no license shall be issued authorizing the conduct of such games on more than two occasions in any one day nor shall any license be issued which shall be effective for a period of more than seven of 12 consecutive days in any one calendar year.

#### 5812.8 Joint licenses

No joint license for the conduct of any game of bingo shall be issued.

#### 5812.9 Jurisdiction of license

(a) The municipal governing body shall, prior to the issuance of any license, make a finding that the applicant organization is domiciled within the territorial limits of the municipality and shall not issue a license to an organization domiciled beyond such territorial limits.

(b) a municipal governing body may, upon a finding that an applicant organization is domiciled beyond the territorial limits of such municipality, issue a license to such applicant organization only in cases where:

(1) the governing body of the municipality in which the applicant organization is seeking licensure and the board determine that, due to some condition of hardship or necessity, the conduct of bingo in the municipality in which the applicant organization is seeking licensure is warranted;

(2) the municipality in which the applicant authorized organization is seeking licensure submits to the board a Letter of Consent expressing its willingness to license the applicant authorized organization;

(3) the premises for which the authorized organization is seeking its license to conduct bingo is within the territorial limits of the municipality wherein licensure is being sought and such premises have been approved by that municipality for the conduct of bingo; and

(4) the board has issued the applicant authorized organization a bingo identification number bearing the municipal code of the licensing municipality.

#### 5812.10 Fees

The initial license fee shall be \$ 18.75 for each occasion of bingo.

#### 5812.11 Hours; occasions

All occasions of regular bingo shall be conducted between the hours of 9 in the forenoon and

12 midnight and no more than three occasions of bingo shall be conducted in the same premises during said hours.

## **PART 5813. BINGO LICENSES: AMENDMENT**

### § 5813.1 Forms for filing application to amend

An application to amend a license shall be made to the municipal governing body on form BC-6, "Application to Amend Bingo License", as prescribed by the board. However, where there is no change in any schedule previously filed, a statement to that effect shall appear in the application and that schedule may be omitted. This form must be used where an amendment is sought and the license is still in effect.

### 5813.2 When amendment is allowed

An amendment of a license may be made if the subject matter of the amendment could properly and lawfully have been included in the original license, and if any fee is due it shall be paid upon the filing of the application to amend.

### 5813.3 How application is processed

The application to amend a license together with appropriate schedules shall be filed in triplicate and processed in the same manner as provided in this Chapter for original applications.

### 5813.4 Procedure when application is approved

When the municipal governing body approves of an amendment to a license which would change such terms of the original license as are affected by schedule 1, 2, 3, 4, 6 or 7 submitted with the application to amend, it may amend the original license by attaching thereto a duly authenticated rider bearing the seal of the municipality, if available, or on the official letterhead of such licensing authority. When the municipal governing body amends a license so as to extend the effective date therein to authorize any subsequent occasion or occasions requested in schedule 5, such license shall be returned and a new license issued.

## **PART 5814. \* COMMERCIAL LESSOR: APPLICATION AND LICENSING**

### § 5814.1 Form for application

Application for a license as an authorized commercial lessor shall be made on form BC-101, as prescribed by the board. The original application with supporting material as set forth in this Part shall be filed with the licensing authority of the municipality where the premises are located and one copy with supporting material with the Racing and Wagering Board at its New York City office.

### 5814.2 Bingo rental statement

Each application shall be accompanied by a bingo rental statement on form BC-102, as prescribed by the board.

### 5814.3 Individual and business entity statement

Where the applicant is an individual, the application shall be accompanied by an individual statement on form BC-103, as prescribed by the board; where the applicant is a partnership, association, joint venture or any business entity other than a corporation, it shall be accompanied by a business entity statement on form BC-104 as prescribed by the board. Each person named in form BC-104 shall file an individual statement on form BC-103.

### 5814.4 Corporation statement

If the applicant is a corporation, the application shall be accompanied by a corporation statement on form BC-105, as prescribed by the board. Each stockholder shall file an individual statement on form BC-103. The application shall also be accompanied by a list of employees, agents or representatives on form BC-108.

### 5814.5 Reserved

### 5814.6 Requisites for license

No license as an authorized commercial lessor shall be granted:

- (a) if any person, whose signature or name appears in the application is not in all respects the real party in interest or if the person so signing or named in the application is an undisclosed agent or trustee for any such real party in interest; and
- (b) unless the licensing authority of the municipality where the premises are located shall determine after thorough investigation that the applicant satisfies the requirements for an authorized commercial lessor as defined in section 476 of the bingo licensing law; and
- (c) unless the licensing authority of the municipality where the premises are located has received an approved schedule of maximum rentals for the premises concerned from the racing and wagering board; and
- (d) unless the licensing authority of the municipality where the premises are located has found and determined that at the time of the issuance of an initial license that there is a public need and that public advantage will be served by the issuance of such license.

#### 5814.7 Hearings

The racing and wagering board and the licensing authority of the municipality where the premises are located may hold hearings at which the applicant, or if the applicant is a corporation, its officers, directors and stockholders, shall appear and testify under oath respecting the contents of the application.

#### 5814.8 Issuance by clerk

When the licensing authority of the municipality where the premises are located has determined that the applicant possesses the requisite qualifications to receive a license, the licensing authority shall issue a license to an applicant as an authorized commercial lessor upon payment by the applicant of a license fee to be determined in accordance with the schedule contained in section 481 of the bingo licensing law.

#### 5814.9 Disapproval procedure

If the application is not approved, the licensing authority where the premises are located shall

give due notice to the applicant, in writing, of a hearing to be held upon the qualifications of the applicant and the merits of the application.

#### 5814.10 Notification of racing and wagering board

The licensing authority of the municipality where the premises are located shall notify the racing and wagering board of its final determination respecting each license application received.

#### 5814.11 Grounds for revocation or suspension

Any license issued to an authorized commercial lessor, pursuant to the bingo licensing law, may be revoked or suspended for such period of time as the licensing authority deems to be in the public interest for any of the following acts or omissions on the part of the licensee, its agents or employees, or any person required by the bingo licensing law or this Chapter to sign or be identified in an original application for a license:

(a) any cause which would have permitted or required disqualification of the licensee from receiving a license upon original application;

(b) fraud, deceit or misrepresentation in securing the license or in the conduct of the licensee's activities or in connection with any application submitted to, or any inquiry, hearing or proceeding conducted by the licensing authority or the racing and wagering board;

(c) failure by the licensee to maintain a complete set of books and records containing a true and accurate account of the licensee's receipts and disbursements arising out of its activities as an authorized commercial lessor;

(d) failure to keep said books and records available during business hours for inspection by the licensing authority or by the racing and wagering board and their duly designated representatives until the expiration of the second calendar year following the calendar year during which the transactions reported therein occurred;

(e) violation of any provisions of the bingo licensing law, this Chapter, or any lease executed pursuant to this Chapter.

#### 5814.12 Time during which license is effective

A license as an authorized commercial lessor shall be valid for a period not exceeding one year or until revoked or suspended by the licensing authority or by the racing and wagering board.

#### 5814.13 Limitation upon applicant for commercial license

No applicant for a license as an authorized commercial lessor shall rent, or allow the use of, the premises for which a license is sought, for the conduct of bingo. This section shall not apply to an applicant for the annual renewal of a commercial lessor's license.

#### 5814.14 License form

Licenses for authorized commercial lessors shall be issued on form BC-109 as prescribed by the board.

#### 5814.15 Establishment of maximum rentals

Upon receipt of a copy of an application for a license as an authorized commercial lessor, the Racing and Wagering Board shall determine the tentative maximum rental for the premises concerned and advise both the applicant and the licensing authority of such determination. The applicant shall be afforded a reasonable time within which to protest the tentative maximum rental by specifying the objections thereto and the grounds for such objections. In the absence of any such protest, the tentative maximum rental shall, without further notice, be deemed to be the final determination of the Racing and Wagering Board. The rental schedule is based upon a review of the Bingo Rental Statement (Form BC-102) and is determined on the basis of a fifty week year. The board, in determining rental fees to be fair and reasonable, considers actual or estimated operating expenses and other income:

(a) Allowable operating expenses.

(1) Compensation, as it relates to the management of the bingo premises, which is computed on a per occasion basis. Management duties include, but are not limited to:

(i) Responsibility for the cleanliness and proper maintenance of the premises;

(ii) Supervision of other employees of the lessor;

(iii) Receipt of the rent checks from the lessees and the preparation of the monthly rental

statement;

(iv) Computation and payment of salaries and wages paid to porters, matrons and security guards;

(v) Computation and payment of payroll taxes, including the applicant's contributions for social security, state and federal unemployment insurance, disability benefits insurance and union welfare funds.

(2) Maintenance expenses, including services provided for cleaning, floor waxing, and other building-related service contracts that have been furnished to the board and licensing municipality.

(3) Utility expenses, including the cost of providing adequate heat, air conditioning, light, electrical power and water.

(4) Repairs, including those repairs for which the applicant is responsible under its lease, and which are not depreciable.

(5) Taxes, including real estate, occupancy, water and corporate franchise taxes, but not including income taxes.

(6) Interest on money borrowed at the current bank rate for operation of the bingo premises and interest on loans for initial conversion and leasehold acquisition, which may be amortized.

(7) Depreciation of buildings, furniture, equipment and major improvements under a reasonable use expectancy schedule approved by the board.

(8) Accounting fees, provided the services are properly itemized.

(9) Insurance premiums paid for coverage which is reasonable and necessary for the operation of the bingo premises. To facilitate board review, a copy of the broker's statement of the insurance premiums must be furnished to the board. Insurance coverage or pension contributions for the benefit of the officers or principals of the applicant or their designees are prohibited.

(10) Legal fees, including those incurred in connection with the initial application for license, if reasonable. The board may require, in some cases, that such costs be amortized.

(11) Rubbish removal expenses considered fair and reasonable. The municipal governing body or the board may require a copy of the current contract, prior to approval.

(12) Telephone expenses considered necessary and reasonable.

(13) Supplies directly related to the operation of the bingo premises.

(14) License fees, as provided for in section 481 of the General Municipal Law.

(15) Other expenses such as postage, stationary, bank charges, permits and equipment rentals, when reasonable and properly itemized.

(16) Amortization: The cost of converting the subject premises for the conduct of bingo, or the cost of acquiring a leasehold interest may be recovered as a capital expenditure by amortization over a period of not less than ten (10) years, subject to board approval. However, amortization is not considered an operating expense in the determination of the reasonable profit.

(17) Rental fees in the amount established in the lease between the applicant and the owner/lessor of the building, which are deemed reasonable by the board. A copy of said lease shall be provided to the board along with the application for commercial lessor's license. To determine the reasonableness of such rental fees, the board may consider appraisals and the rental fees of other comparable premises. In cases where the principal(s) of the applicant is also the principal(s) owner or the lessor of the bingo premises, the board will permit, in lieu of rent, those expenses relating only to the ownership of the premises. Such expenses are limited to mortgage interest, real estate taxes, depreciation and insurance.

(b) Other income. The applicant must report all other income derived from the use of the premises. Such other income includes, but is not limited to:

(1) Concession income, which includes:

(i) all income specified in the lease agreement between the applicant lessor and the operator of the food concession; and

(ii) all income derived from the food concession if such facility is wholly owned and operated by the applicant lessor; and

(2) Income derived from rentals for purposes other than bingo, parking fees, vending machines and public telephone commissions.

#### 5814.16 Recapitulation of fees

At the end of the license period, a recapitulation shall be made as between the licensee and the licensing authority with respect to the gross rental received during the license period and the license fee previously paid. Any deficiency of fee thereby established to be due shall be paid by the licensee and, should said licensee apply for a license for a subsequent year, and in that event only, shall any excess of fee be credited to said applicant.

#### 5814.17 Interest in another commercial bingo hall prohibited

No person, firm or corporation shall be eligible to receive or be issued a license as a commercial lessor if such person, firm, corporation, or officer, employee or stockholder thereof, or a person married or related in the first degree to such person, officer, employee or stockholder shall have any interest, direct or indirect, in another commercial bingo hall. The interest prohibited shall include, but not be limited to, the interest of the owner of the fee or sublessor of any premises that is to be used for the conduct of bingo, the interest of the owner or operator of the food and refreshments concession, or the interest of any person conducting any business activity in conjunction with the conduct of bingo.

#### 5814.18 Limitations on food concession owner and employees

No principal, employee or any other person having any interest in the food and refreshments concession of a licensed commercial lessor shall serve in any capacity on behalf of the licensed commercial lessor or have any proprietary interest in the licensed commercial lessor. These limitations do not apply where the food and refreshments facility is wholly owned and operated by the licensed commercial lessor.

### **PART 5815. BINGO SUPPLIER: APPLICATION AND LICENSING**

#### § 5815.1 License required

No person, firm or corporation shall sell or distribute bingo supplies or equipment to any authorized organization licensed to conduct bingo without having first obtained a license therefor as provided in the bingo control law and this Chapter.

#### 5815.2 Form for application

Application for a license as a bingo supplier shall be made on form BC-106 as prescribed by the board. The application with supporting material as set forth in this Part, shall be filed in duplicate with the Racing and Wagering Board.

#### 5815.3 Individual and business entity statement

Where the applicant is an individual, the application shall be accompanied by an individual statement on form BC-103; where the applicant is a partnership, association, joint venture or any business entity other than a corporation, it shall be accompanied by a business entity statement on form BC-104. Each person named in form BC-104 shall file an individual statement on form BC-103.

#### 5815.4 Corporation statement

If the applicant is a corporation, the application shall be accompanied by a corporation statement on form BC-105. Each stockholder shall file an individual statement on form BC-103.

#### 5815.5 List of employees, agents or representatives

The application shall be accompanied by a statement on form BC-108 as prescribed by the board, containing a list of all employees, agents or representatives of the applicant.

#### 5815.6 Requisites for license

No license as a bingo supplier shall be granted:

(a) if any person whose signature or name appears on the application is not in all respects the real party in interest or if the person so signing or named in the application is an undisclosed agent or trustee for any such real party in interest; and

(b) unless the racing and wagering board shall determine that the applicant satisfies the requirements for a bingo supplier as set forth in the bingo control law.

### 5815.7 Hearings

The racing and wagering board may hold hearings at which the applicant, or if the applicant is a corporation, its officers, directors, and stockholders, shall appear and testify under oath respecting the contents of the application.

### 5815.8 Issuance by racing and wagering board

When the racing and wagering board has determined that the applicant possesses the requisite qualifications to receive a license, it shall issue a license as a bingo supplier upon payment by the applicant of a license fee to be determined in accordance with the schedule contained in the bingo control law.

### 5815.9 Disapproval procedure

If the application is not approved, the racing and wagering board shall give due notice to the applicant, in writing, of a hearing to be held upon the qualifications of the applicant and the merits of the application. At the hearing the burden of proof shall be on the applicant to establish eligibility for a license.

### 5815.10 Grounds for revocation or suspension

Any license as a bingo supplier issued pursuant to the bingo control law may be revoked or suspended for such period as the racing and wagering board deems in the public interest for any of the following acts or omissions on the part of the licensee, its agents or employees, or any person required by the bingo control law or this Subtitle to sign or be identified in an original application for a license:

- (a) any cause which would have permitted or required disqualification of the licensee from receiving a license upon an original application;
- (b) fraud, deceit or misrepresentation in securing the license or in the conduct of the licensee's activities or in connection with any application submitted to, or any inquiry, hearing or proceeding conducted by the racing and wagering board;
- (c) failure by the licensee to maintain a complete set of books and records containing a true and accurate account of the licensee's receipts and disbursements arising out of his or its activities as

a licensed bingo supplier;

(d) failure to keep said books and records available during business hours for inspection by the racing and wagering board and its duly designated representatives until the expiration of the second calendar year following the calendar year during which the activities reported therein occurred;

(e) violation of any provision of the bingo control law or this Chapter.

#### 5815.11 Persons prohibited from participating in the conduct of bingo

No person who is directly or indirectly connected with the manufacture, sale or distribution of bingo equipment or supplies or his agents, servants or employees shall conduct, participate, advise or assist in the conduct of bingo, render any service or give or loan money or anything of value, whether directly or indirectly to a commercial lessor, agent or representative, or to anyone conducting, participating or assisting in the conduct of bingo, or prepare any form pertaining to bingo. This shall not be construed so as to prohibit a licensed manufacturer or supplier from selling, offering for sale, or explaining a product to a licensed authorized organization or installing or servicing bingo equipment upon the premises of a licensed authorized organization.

#### 5815.12 Bingo supplier to notify racing and wagering board of changes in structure

An applicant for a license as a bingo supplier shall, during the pendency of the application, notify the racing and wagering board immediately of any change respecting any facts set forth in the application. If any such change occurs after the issuance of the license applied for, the change must be reported to the racing and wagering board within 10 days of the date of the change. Furthermore, every licensed bingo supplier shall notify the racing and wagering board of any change in its organization, structure, mode of operation, or of any change in the identity of persons named or required to be named in the application, or of the nature or extent of their interest, or of any other change respecting any facts set forth in the application, within 10 days of the date of such change. Failure to give the notice herein provided shall constitute sufficient cause for denial of a pending license or suspension or revocation of a license which has been granted.

#### 5815.13 Maintenance of books and records

All licensed bingo suppliers shall maintain their books and records in such manner as to enable

the racing and wagering board to determine the gross sales of bingo equipment and supplies to authorized organizations duly licensed to conduct bingo games in the State of New York.

#### 5815.14 Sales to other than licensed organizations prohibited

(a) No licensed bingo supplier, its duly authorized agents, salesmen or representatives shall, during the term of such license, sell or distribute bingo supplies or equipment in the state of New York to other than:

(1) an authorized organization which is licensed to conduct bingo,

(2) any apartment, condominium or cooperative complex, retirement community, or other group residential complex or facility located within a municipality that has authorized the conduct of bingo games by authorized organizations where:

(i) such games are sponsored by the operator of or an association related to such complex, community or facility;

(ii) such games are conducted solely for the purpose of amusement and recreation of its residents;

(iii) no player or other person furnishes anything of value for the opportunity to participate;

(iv) the value of the prizes shall not exceed ten dollars for any one game or a total of one hundred fifty dollars in any calendar day;

(v) such games are not conducted on more than fifteen days during any calendar year; and

(vi) no person other than an employee or volunteer of such complex, community or facility conducts or assists in conducting the game or games.

(3) any bona fide social, charitable, educational, recreational, fraternal or age group organization, club or association located within a municipality that has authorized the conduct of bingo games by authorized organizations solely for the purpose of amusement and recreation of its members or beneficiaries where:

(i) no player or other person furnishes anything of value for the opportunity to participate;

(ii) the value of the prizes shall not exceed ten dollars for any one game or a total of one hundred

fifty dollars in any calendar day;

(iii) such games are not conducted on more than fifteen days during any calendar year;

(iv) no person other than a bona fide active member of the organization, club or association participates in the conduct of the games; and

(v) no person is paid for conducting or assisting in the conduct of the game or games.

(4) a hotel, motel, recreational or entertainment facility or common carrier where bingo games are played as a social activity solely for the purpose of amusement and recreation of its patrons within a municipality that has authorized the conduct of bingo games by authorized organizations where:

(i) no player or other person furnishes anything of value for the opportunity to participate;

(ii) the value of the prizes shall not exceed ten dollars for any one game or a total of one hundred fifty dollars in any calendar day;

(iii) such games are not conducted on more than fifteen days during any calendar year;

(iv) no person other than an employee or volunteer conducts or assists in conducting the game or games; and

(v) the game or games are not conducted in the same room where alcoholic beverages are sold.

(b) A licensed commercial lessor shall not buy, sell, or provide any bingo opportunities or, except as reflected in its board-approved lease agreement(s), any other bingo supplies or equipment.

#### 5815.15 Transaction of business during conduct of bingo prohibited

All licensed bingo suppliers, their duly authorized agents, salesmen and representatives are forbidden to be present during the conduct of bingo for the transaction of business, except if authorized by the licensed authorized organization.

#### 5815.16 Time during which license is effective

A licensee as a bingo supplier shall be valid for a period not exceeding one year or until revoked or suspended by the Racing and Wagering Board.

#### 5815.17 Temporary permit

The Racing and Wagering Board may issue a temporary permit to an applicant pending final action on the application. Any such temporary permit shall be valid until withdrawn by the Racing and Wagering Board. 5815.17 Temporary permit

The Racing and Wagering Board may issue a temporary permit to an applicant pending final action on the application. Any such temporary permit shall be valid until withdrawn by the Racing and Wagering Board.

#### 5815.18 License form

A license as a bingo supplier shall be issued on form BC-107 as prescribed by the board.

#### 5815.19 Recapitulation of fees

At the end of the license period, a recapitulation shall be made as between the licensee and the Racing and Wagering Board with respect to the gross sales recorded during the license period and the license fee previously paid. Any deficiency of fee thereby established to be due shall be paid by the licensee and, should said licensee apply for a license for a subsequent year, and in that event only, shall any excess of fee be credited to said applicant.

#### 5815.20 Identity on bingo cards

No licensed supplier shall sell any type of bingo card unless there is printed thereon the name, mark or symbol of the printer or manufacturer which name, mark or symbol has been registered with the Racing and Wagering Board.

#### 5815.21 Supplier's gifts, donations and loans prohibited

A licensed supplier shall not agree to or sell or distribute bingo supplies or equipment at less than fair market value.

## **SUBCHAPTER C. CONDUCT OF GAMES**

### **PART 5820. GENERAL CONDUCT OF BINGO**

#### § 5820.1 Duties of member in charge

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

#### 5820.2 Responsibility for children

In those municipalities which permit children under the age of 18 years to attend bingo occasions, the adults accompanying such children shall assert control and be responsible for the actions of such children throughout the bingo occasions.

#### 5820.3 Restriction on participation

No person shall assist in the conduct of bingo except an active member of the licensee, an active member of an organization which is an auxiliary to the licensee, an active member of an organization of which the licensee is an ancillary, or an active member of an organization which is affiliated with the licensee by being, with it, auxiliary to another organization. Before a member of any organization assists the licensee in the conduct of bingo, such organization must register with the Racing and Wagering Board and secure an identification number.

#### 5820.4 Badges

The member in charge, those assisting him, including the caller and his assistant, shall wear badges approved by the Racing and Wagering Board, containing the name, signature and address of the wearer, the name of the organization for which he is working, the name of the organization of which he is a member, and his photograph. Each member shall also have in his possession valid identification, containing his name and address, which must be exhibited upon the request of a representative of the board or municipality.

#### 5820.5 Designation of officer responsible for utilization of bingo monies

The officers of a licensee shall designate an officer to be in full charge of, and primarily responsible for, the proper utilization of all monies derived from the conduct of bingo in accordance with the Bingo Licensing Law and this Chapter. Not less than two members shall be responsible for counting the bingo proceeds.

#### 5820.6 Payment of person conducting games; gifts, donations prohibited

No commission, salary, compensation, reward, recompense, reimbursement of expenses or gift shall be paid to any person for conducting or assisting in the conduct of games of bingo except for the bookkeepers or accountants who assist by rendering their professional services. No tip, gratuity or gift may be given or accepted by any person conducting or assisting in the conduct of games of bingo either directly or indirectly, and one or more signs prohibiting tipping shall be prominently displayed in each playing area. No person shall solicit or receive any gift or donation on the premises during the conduct of an occasion of bingo.

#### 5820.7 Compensation of bookkeepers and accountants

Bookkeepers and accountants shall limit their professional services to one organization duly licensed to conduct bingo games and the duly licensed organizations that are affiliated with, or auxiliary to, that parent organization during any calendar year. Bookkeepers and accountants receiving compensation for their services shall not participate or assist in any capacity in the conduct of the games. The fees paid for bookkeeping or accounting services shall not exceed those set forth in the following schedule:

- (a) Preparing Financial Statement of Bingo Operations  
(form BC-7) .....\$ 25 per occasion;

- (b) Preparing and maintaining the bookkeeping system required by this Chapter during the months when games are conducted ..... \$ 50 per month;
- (c) Supervising bookkeeping system without making entries .....\$ 25 per month;
- (d) Preparing Quarterly Summary Statement of Bingo Operations (form BC-7Q) .....\$ 50.

5820.8 Admission charge

No more than \$ 5 shall be charged by any licensee for an admission card or cards required to enter any room or place in which any game or games of bingo are to be conducted, which admission fee shall entitle the person paying the same to participate, without additional charge, in all regular games of bingo to be played under such license during such occasion. An admission card may be offered as part of a package that includes extra regular cards and special cards provided such admission card is readily distinguishable from all other bingo opportunities sold and provided identical admission cards are also offered for sale separately by the licensee for a price not to exceed five dollars. No person shall be permitted entry into any room or place in which any bingo game is to be conducted without purchasing at least an admission card, except a person licensed to manage or assist in the conduct of bingo or licensed games of chance, a person authorized to operate the food concession, security personnel or, when present solely to effect repairs on the premises of a lessor, the licensed lessor or an agent thereof. No person shall be permitted to participate in any bingo game without purchasing at least an admission card. No person shall be required to purchase any bingo opportunity other than an admission card or cards to gain entry, and no person shall be sold or shall be permitted to play more than one admission card or package per bingo occasion. The provisions of this section shall not apply to limited period bingo.

5820.9 Premises open to inspection

The premises where any game of bingo is conducted, or where it is intended that any game of bingo shall be conducted or where it is intended that any equipment be used, shall, at all reasonable times, be open to inspection by the Racing and Wagering Board and the municipal governing body, and the officers, agents and employees thereof.

5820.10 Ownership of equipment

The licensee shall not conduct any bingo game with any equipment which it does not own

absolutely or lease from a bingo supplier licensed by the board or another authorized organization, except that equipment which a lessor undertakes to provide by the terms of a written lease. No licensee shall agree to purchase its supplies in consideration of receiving the use of any equipment, goods or supplies without charge. The provisions of this section shall not be construed so as to permit an authorized organization to engage in the business of selling or leasing bingo supplies or equipment.

#### 5820.11 Sale of merchandise prohibited

The sale or offering for sale of any merchandise within one-half hour prior to, during, or within one-half hour after the conclusion of any bingo occasion is prohibited, except for the sale or offering for sale of bingo supplies by the licensee or the sale of food or refreshments, if authorized by the licensee.

#### 5820.12 Players' selection of bingo face-cards prohibited; surrender of unused bingo opportunities

(a) Players shall purchase only the uppermost bingo opportunity or package of opportunities forming a stack of such opportunities, and shall be prohibited from selecting any bingo opportunity by its face-card, except that in a supercard game players choose their cards, and in a player select game players enter numbers of their choice on their player select cards.

Opportunities shall be printed on only one side of any card. No player shall be given the opportunity to determine the selection of any particular bingo face-card on the basis of the numbers appearing thereon, except with respect to supercard games and player select games. At no time during an occasion shall any opportunity or opportunities be transferred or exchanged, except if such opportunity or opportunities be defective or a duplicate of a face-card purchased by the same player or an opportunity for a pre-drawn bingo game exchanged pursuant to section 5820.51 of this Part. The provisions of this section shall apply to the conduct of all bingo games.

(b) Players leaving a bingo occasion for the remainder of an occasion shall surrender their bingo opportunities to participate in all remaining games to a member-in-charge upon departure, and such opportunities shall not be sold, transferred, or played by any other person during such occasion.

#### 5820.13 Time for selling bingo cards; accounting of bingo cards sold

No regular bingo cards or special game cards shall be sold after the completion of the scheduled

game marking the half-way point in an occasion, except with respect to supercards and opportunities to participate in a jackpot game. The licensee shall keep an accurate count in separate categories of the number of admission cards sold, the number of extra regular cards sold, the number of special game cards sold, the number, count and price of each package of opportunities sold, the number of early bird cards sold, the number of player select cards sold, the number of supercards sold, the number of pre-drawn bingo cards sold, the number of quick bingo cards sold and, where applicable, the number of limited period bingo cards sold, which information shall be available for inspection at the close of each occasion. The admission cards, special cards and extra regular cards shall be clearly different and readily distinguishable from each other.

#### 5820.14 Price of bingo cards

(a) All opportunities to play, including admission cards, extra regular cards, special game cards, packages of opportunities, supercards, early bird cards, pre-drawn bingo cards, player select cards, quick bingo cards and, where applicable, limited period bingo cards, shall be assigned a specific price, shall be sold for that price only and that price shall not be varied during any occasion. All such opportunities shall be sold only within the building or place in which bingo is conducted. Every package of opportunities shall be sold as a unit and no single opportunity forming a part of such unit shall be sold individually, except with respect to admission cards sold pursuant to section 5820.8 of this Part, unless the single opportunities correspond with, but are clearly different and readily distinguishable from, those opportunities comprising such package. A list shall be posted where the admission cards are sold setting forth the specific price of each such opportunity or package of opportunities. The price of each opportunity bearing the same number of face-cards per card or sheet, whether they be in the form of hard-boards, disposable cards or electronic bingo aid images, shall be identical to each other and shall be conspicuously posted and listed on the licensed authorized organization's bingo program required under section 5820.39 of this Part. The sale of such opportunities at any price other than that posted and listed on the bingo program is prohibited. The price for a one-on face-card to participate in an early bird game shall not exceed one dollar. Early bird opportunities bearing more than one face-card may be priced at the discretion of the licensed authorized organization, provided one-on early bird cards are simultaneously offered for sale at a price of one dollar, or less. A sign posted where supercards are sold shall set forth the price of each supercard opportunity and the amount or odds of each payout. The price per supercard shall not exceed ten dollars. In the case of limited period bingo, not more than 25 cents shall be charged for a single opportunity to participate in any one game and no person shall purchase more than five opportunities at any one time to participate in any one game.

(b) Opportunities to participate in both occasions of a double-header or all three occasions of a

triple-header, as defined in section 5800.1(g) and (cc) of this Title, respectively, may be offered for sale as a package of opportunities, provided the licensed authorized organization separately identifies the opportunities sold during each of the occasions on the bingo program required under section 5820.39 of this Part, offers the sale of opportunities to participate in each occasion separately upon request, offers the sale of admission cards separately as required under section 5820.8 of this Title, and accounts for such opportunities separately on its financial statements of bingo operations in accordance with section 5821.1 of this Title.

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

(1) Each tier of bingo opportunities or packages of opportunities shall be readily distinguishable from the opportunities and packages of opportunities sold for all other tiers, and no two identical series of tiered bingo opportunities shall be sold during the same bingo session;

(2) The aggregate of the tiered prizes awarded in any single game shall not exceed \$ 1,000 and the aggregate of tiered bingo games shall not cause the series of prizes to exceed \$ 3,000 in prizes during any occasion;

(3) When it is determined that there are multiple winners in the same game but in different tiers, the winner in each tier shall be awarded the dollar amount for the prize scheduled for that tier, divided by the total number of winners in all tiers for that game. For example, if there are two winners on the first tier and three winners on the second tier, the two winners on the first tier will each be awarded one-fifth of the dollar amount for the prize for the first tier; the remaining three winners will each receive one-fifth of the dollar amount for the prize for the second tier; and

(4) No more than four tiers of prizes shall be offered per bingo occasion.

#### 5820.15 Kind of equipment used for games

(a) The equipment used in the conduct of bingo shall be maintained in good repair and sound working condition. The utilization of such equipment and the method of play shall be such that each player is afforded an equal opportunity to win. The objects or balls to be drawn shall be essentially the same as to size, color, shape, weight, balance and all other characteristics so as to be, at all times during the conduct of bingo, equally agitated and circulated within the receptacle, except that each of the five letters comprising the word BINGO reflected on the objects or balls may be designated its own color, provided that all of the fifteen numbered balls or objects corresponding to the color of each letter in the word BINGO shall be identical in color to each

other. All 75 objects or balls shall be present in the receptacle before each game is begun.

(b) If a determination is made by the caller during the calling of the numbered objects or balls of a game in progress that one or more of the 75 objects or balls were not present in the receptacle prior to the calling of the first ball drawn in that game due to mechanical malfunction or human error, an announcement shall be made that the game has been cancelled, all 75 objects or balls shall be returned to the receptacle and the game shall be restarted. During occasions in which indelible ink daubers and disposable paper bingo opportunities are utilized, an announcement shall be made requiring that all participants mark their cards for the restarted game in a different colored ink than that color used during the cancelled game. All numbers announced shall be clearly audible to all the players present. Where more than one room is used for any one game, the receptacle, the caller and the assistant caller must be in the room where the greatest number of players are present and all letters and numbers announced shall be clearly audible to the players in such room and also clearly audible to the players in the other room or rooms.

#### 5820.16 Drawing of numbers

There shall be two persons present at the receptacle from which the objects, or balls are drawn; one person shall remove the ball from the receptacle, observe the letter and the number, and hand it to the other person who shall raise the ball to display the letter and number to the players and announce the letters and the complete numbers being called accurately and audibly to all players present. Where there is an audio-video system in operation, the caller may be the sole person present at the receptacle from which the objects or balls are drawn, provided the caller positions each ball before the camera to clearly display the letter and number appearing on each ball to the players via the video monitor(s). When an audio-video system is in operation, the caller shall announce the next letter and number in its entirety while the image of that letter and number are clearly displayed on the video monitor(s) and shall raise the ball to display the letter and number to the players before placing it in the appropriately numbered space at the caller's station. The caller shall not be required to handle the ball when a hands-free bingo receptacle approved by the board is utilized, but shall be required to announce both the letter and the number while the image of that letter and number are clearly displayed on the video monitor(s). Speed-up games such as the wild number game in which players mark those numbers appearing on their face-cards whose second digits match the wild number's single digit number (or its second digit if the wild number is a two-digit number) so designated by the licensed authorized organization are permitted only when the bingo system utilized has a wild number function that automatically causes the bingo display board to illuminate the wild number and all numbers corresponding with it. Once removed, no ball shall be returned to the receptacle until after the conclusion of the game.

#### 5820.17 Visibility of drawing to players

The receptacle, the caller and the assistant caller removing the objects or balls from the receptacle shall be visible to the majority of players at all times. During occasions in which an audio-video system is used, the video monitors of such system shall be visible to a majority of the players at all times and shall be maintained in good working order. The pre-drawing of the numbers in a pre-drawn bingo game shall begin not more than forty-five minutes prior to the start of the game, and shall not begin unless there are a number of players equal to at least ten percent of the bingo seating capacity present to verify the integrity of the pre-drawing of the numbered balls.

#### 5820.18 Announcement of winning patterns before a game

The particular arrangement of numbers required to be covered in order to win the game (the winning pattern) and the amount of the prize for each game shall be listed on the licensed authorized organization's bingo program, in accordance with section 5820.39 of this Part, and shall be clearly and audibly described and announced to the players immediately prior to the calling of the first ball drawn in that game. If a game is divided into multiple parts, the winning pattern and the amount of prize for each part of the game shall be listed on the licensed authorized organization's application for bingo license and on the bingo program required under section 5820.39 of this Part, and shall be audibly announced to the players immediately prior to each multiple game. The aggregate amount of the prizes comprising all parts of a multiple-part game shall not exceed \$ 1,000.

#### 5820.19 Permissible winning patterns

No arrangement of numbers on any face-card shall be required to be covered in order to win a game other than the following:

- (a) one unspecified horizontal row;
- (b) one unspecified vertical row;
- (c) one unspecified diagonal row;
- (d) one unspecified row (horizontal, vertical or diagonal);

- (e) a specified arrangement consisting of two or more of the foregoing;
- (f) the entire card, known as a full-card;
- (g) four outside corners designated as top and bottom spaces under the letters B and O;
- (h) eight spaces surrounding the free space;
- (i) four inside corners around the free space designated as second and fourth spaces from the top under letters "I" and "G";
- (j) any other winning pattern which has been approved in writing by the Racing and Wagering Board.

With the exception of supercard and player select no winning pattern shall require a player to cover or daub fewer than four numbered spaces on any single face-card, nor shall any winning pattern require the covering or daubing of numbers on more than three bingo face-cards.

#### 5820.20 Bonus prizes

A bonus prize may be awarded on the basis of either a specific winning pattern or the type of face-card required to win a game provided the amount of the bonus prize is listed on the application for bingo license and on the licensed authorized organization's bingo program required under 5820.39 of this Part, and provided the winning pattern and the type of bingo face-card to be used have been approved by the board in accordance with section 5820.19(j) of this Part.

(a) The dollar amount of a prize may be progressively increased from one occasion to successive occasions on the basis of a specified number of calls within which the player is required to obtain a winning pattern, provided the minimum number of calls needed to win, the face-card pattern needed to win, the dollar amount of the initial prize, the dollar amount of the consolation prize to be awarded in the event that the winning pattern is not obtained within the specified number of calls, and a detailed description of how the progressive prize will be increased for each occasion is reflected on the application for bingo license or amendment thereto, and on the licensed authorized organization's bingo program required under section 5820.39 of this Part. Once the progressive prize is awarded, the number of calls needed to win and the dollar amount of the progressive prize shall revert back the minimums reflected on the application for bingo license or amendment thereto, and on the licensed authorized organization's bingo program. The caller shall

announce the winning pattern, the number of calls needed to win, the dollar amount of the progressive prize, and the dollar amount of the consolation prize immediately prior to announcing the first ball in a progressive game.

(b) No bonus prize(s) offered shall result in the awarding of a single prize in excess of \$ 1,000 or a total series of prizes in excess of \$ 3,000 during any occasion.

(c) No prize shall be awarded based on the caller's selection of a ball other than one of the seventy-five numbered balls approved for use under 5820.15 of this Part.

(d) No prize shall be awarded based on a player's covering or daubing in indelible ink a numbered space that is not identical to the number announced by the caller, with the exception of a wild number game as defined in section 5800.1(ae) of this Title.

#### 5820.21 Verification of numbers drawn

Any player shall be entitled to call for a verification of all numbers drawn at the time a winner is determined, and for a verification of the objects or balls remaining in the receptacle and not yet drawn. The verification shall be made in the immediate presence of the member in charge of the occasion and in the immediate presence of one or more disinterested players.

#### 5820.22 Verification of winning cards

A verification of the numbers appearing on the winning card at the time a winner is determined shall be made in the immediate presence of one or more disinterested players.

#### 5820.23 Maximum number of games to be played

No licensee shall conduct more than 35 bingo games on a single occasion. In the case of limited period bingo, no licensee shall conduct more than 60 games on a single occasion, and at least 20 minutes shall elapse between occasions conducted on the same day.

#### 5820.24 Sale of raffle tickets and games of chance

No unlicensed bingo or game of chance, whether any separate or additional charge or wager is

required or not, shall be conducted or allowed during any occasion of bingo. New York State Lottery tickets, licensed raffle tickets and/or licensed bell jar tickets may be sold or offered for sale at any occasion when bingo is played by the licensed bingo organization, or a licensed organization that is affiliated with or auxiliary to the licensed bingo organization when permitted by the licensed bingo organization. When a licensed authorized organization's premises are leased to another authorized organization for the conduct of bingo, the lessor shall not sell its bell jar tickets nor raffle tickets within such demised premises for a period commencing one hour prior to the starting time of the occasion specified on the lessee's bingo license and terminating one hour after the conclusion of such occasion.

#### 5820.25 Maximum value of prizes offered

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

#### 5820.26 Merchandise prizes

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

#### 5820.27 Multiple winners

When more than one player is determined to be the winner on the call of the same number in the same game, the designated prize shall be divided equally to the nearest nickel but not to exceed the amount of the designated prize.

(a) When it is determined that one player obtains two winning patterns on two different face-cards on the same call that another player (or players) obtains a winning pattern, the dollar amount of the designated prize shall be divided among all winners, with the player obtaining two winning patterns being awarded two equal shares of such prize.

When equal division of a merchandise prize is not possible, substitute prizes whose aggregate value shall not exceed the designated prize shall be awarded, but such substitute prizes shall be of equal value.

(b) When the calling of one number results in more than one winning pattern on a single face-card played by the same player in a single-part game, that player shall be entitled to only one prize for that game, or only one share of the dollar amount of the prize awarded for that game when more than one player is determined to be a winner on the same number called therein.

(c) When one player is found to be the winner of more than one part of a multiple-part game on one or more face-cards on the same number called, that player shall be entitled to the dollar amounts of the prizes awarded for winning both parts of that multiple-part game, or an equal share of the dollar amounts of the prizes awarded for any part or parts of a multiple-part game when there is more than one winner. A licensed organization shall not require that an additional ball be drawn and announced prior to honoring any prize in a multiple-part bingo game unless the licensee has adopted a house rule requiring such, pursuant to section 5820.53 of this Part, and has included that requirement in its bingo program required under section 5820.39 of this Part.

(d) When a player wins a second (or subsequent) part of a multiple-part game before a winner has been verified on the first (or preceding) part of such game, that player shall be awarded the prize scheduled for the winning pattern that he or she obtained.

(e) Multiple winners in tiered bingo games and tri-color bingo games shall be paid in accordance with the provisions of section 5820.14 and section 5820.56 of this Part, respectively.

#### 5820.28 Varying value of prizes offered

Within the limits heretofore established, the prizes offered may be varied depending upon the number of people who attend the occasion, provided the application for bingo license and the license so specify. If a licensee avails itself of the provisions of this section, it must announce at the beginning of the occasion the number of people present and the prizes to be awarded. If such option is exercised, it must apply to all games. In the conduct of limited period bingo, the licensee may vary the prize for each game depending upon the number of people participating in each game, and the prize for each game shall be announced before the commencement of each game.

#### 5820.29 Gifts prohibited

No licensee shall offer, distribute or give any service, thing of value, or opportunity to play bingo, without charge.

#### 5820.30 Admission charge as requisite to participate

Except in the case of limited period bingo, no person shall be permitted entry into any room or place in which any bingo game is to be conducted without purchasing an admission card, except a person licensed to manage or assist in the conduct of bingo or licensed games of chance, a person authorized to operate the food concession, security personnel or, when present solely to effect repairs on the premises of a lessor, the licensed lessor or an agent thereof. No person shall be permitted to participate in any bingo game without purchasing an admission card. No person shall be required to purchase any bingo opportunity other than an admission card or cards to gain entry, and an authorized organization shall not sell a person or otherwise permit a person to play more than one admission card or package per bingo occasion. In the case of limited period bingo, no admission fee shall be charged.

#### 5820.31 Property not permitted as prizes

No licensee shall offer, distribute or give any prize consisting of real estate or an interest therein, bonds, shares of stock, securities or evidence of indebtedness, or any merchandise refundable in any of the foregoing.

#### 5820.32 Unapproved buildings

No games of bingo shall be held in any building which has not been approved by the municipal governing body for public assembly, if required by law.

#### 5820.33 Rental payment due

The rent charged a licensed authorized organization, for use of premises in which to conduct bingo, shall be paid in full by check within 48 hours after the conclusion of each bingo occasion.

#### 5820.34 Persons prohibited as players

No licensee shall permit any person who has participated or assisted in the management or conduct of the bingo occasion to participate as a bingo player or purchase bell jar tickets or raffle tickets at any time during such occasion.

#### 5820.35 Qualifications of person calling game

No person shall act as a caller or assistant to the caller in the conduct of any game of bingo unless he has been a member in good standing of the licensee conducting such game or one of its registered auxiliaries for at least one year immediately prior to the date of such game, be of good moral character and never been convicted of a crime.

#### 5820.36 Use of net proceeds

The entire net proceeds of all games of bingo must be devoted to one or more of the lawful purposes as defined in the Bingo Licensing Law and this Subtitle. Organizations failing to comply with this section will be required to show cause before the Racing and Wagering Board why their right to conduct games of bingo should not be revoked.

#### 5820.37 Report of net profits

Any organization licensed to conduct games of bingo which does not report net profits during any one-year period may be required to show cause before the Racing and Wagering Board why its license to conduct games of bingo should not be revoked.

#### 5820.38 Reserved

#### 5820.39 Accommodations to be furnished players

Each player must be furnished at no additional charge with a chair and a place with sufficient room to be able to play. Each player shall also be furnished with a bingo program listing the name and bingo identification number of the licensed authorized organization conducting the occasion, the house rules adopted by the licensee, and a schedule of all games and the prizes to be awarded therein, including the amount or odds to be paid out in each supercard game and the

percentage of the receipts to be awarded as a prize in each early bird game. Each premises in which bingo is conducted shall comply with all federal, state and local smoking laws.

#### 5820.40 Transportation of patrons

No licensee shall provide, by contract or otherwise, for transportation of patrons to or from the place where any game of bingo is conducted, unless prior written authorization is obtained from the Racing and Wagering Board. The application for this authorization must be in writing and must establish to the satisfaction of the Racing and Wagering Board that the licensee has good cause for such request. Any authorization granted by the Racing and Wagering Board may be suspended or revoked by the Racing and Wagering Board if it determines that there is no further need for this transportation, or that the licensee has violated any of the provisions of the Bingo Licensing Law or this Subtitle, or that in the opinion of the Racing and Wagering Board the transportation of patrons to and from bingo games should no longer be authorized.

#### 5820.41 Purchase of bingo supplies

No authorized organization licensed to conduct bingo shall purchase or receive any bingo supplies or equipment from other than a licensed supplier or another authorized organization.

#### 5820.42 Sale and distribution of bingo supplies

(a) To sell or distribute bingo supplies or equipment to a licensed authorized organization one must be either:

(1) a licensed bingo supplier; or

(2) an organization, authorized within the preceding year to conduct bingo, that is merely disposing of supplies or equipment that it no longer needs for the conduct of bingo.

(b) A licensed supplier shall not agree to sell or distribute bingo supplies or equipment at less than fair market value.

The provisions of this section shall only be construed so as to authorize and permit an authorized organization to dispose of bingo supplies or equipment no longer required by it for the conduct of bingo.

#### 5820.43 Standard of conduct of games prescribed

Every licensed authorized organization shall so supervise, regulate and conduct games of bingo, in accordance with the Bingo Licensing Law and this Subtitle, so as to afford and ensure all players an equal opportunity to win and to eliminate any influence which has or may have as its purpose the predetermination or selection of any winner or winners.

#### 5820.44 Cashing of checks prohibited

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

#### 5820.45 Limited period bingo cards

(a) No cards for limited period bingo shall be sold or distributed to other than a licensed authorized organization. No limited period bingo cards shall be sold or distributed to a licensed authorized organization unless and until:

(1) such cards have been prepared in pads, each card bearing a serial or coding number; and

(2) such cards have been packaged in sealed cartons, each of which has been conspicuously stamped or marked with a serial or coding number identifying the cards contained therein.

(b) Every licensed authorized organization shall retain the invoice of each such shipment, a record of the cards on hand and the number of all cards sold at each licensed occasion for a period of not less than four years.

#### 5820.46 Use of limited period bingo cards

Each card shall be used for one game only and be indelibly marked by the player while in use in such manner as to render such card void and unusable thereafter. Limited period bingo cards shall not be used in the conduct of any other type of bingo games.

#### 5820.47 Advertising of bingo games

A licensee may advertise the conduct of an occasion of bingo to the general public by means of newspaper, radio, circular, handbill and poster, and by one sign not exceeding 60 square feet in area, which may be displayed on or adjacent to the premises owned or occupied by a licensed authorized organization; and when an organization is licensed to conduct bingo occasions on the premises of another licensed organization or of a licensed commercial lessor, one additional such sign may be displayed on or adjacent to the premises in which the occasions are to be conducted. Additional signs may be displayed upon any fire-fighting equipment belonging to any licensed authorized organization which is a volunteer fire company, or upon any equipment of a first-aid or rescue squad in and throughout the community served by such volunteer fire company or such first-aid or rescue squad, as the case may be. All advertisements shall be limited to the description of such event as bingo, the name of the licensed authorized organization conducting such occasions, the license number of the authorized organization as assigned by the clerk, and the date, location and time of the bingo occasion, and shall not include any misleading information or representations.

#### 5820.48 Supercard game

(a) The supercard game is a special game for which supercard opportunities are sold and used and shall be conducted as follows:

(1) concurrently with a bingo game;

(2) the payout for the supercard game shall be separate from the prize(s) awarded in the bingo game;

(3) a player cannot participate in a supercard game without having purchased an opportunity to play in the concurrent bingo game;

(4) the price for each supercard shall not exceed \$ 10 and the price for each supercard shall be uniform for each supercard game;

(5) the player may select, if available, the supercard of his or her choice to be used in the supercard game; and

(6) the authorized organization shall complete the application for a bingo license (form BC-2) by listing in the appropriate schedule the number of bingo games in which supercard games are to be conducted and the amount of the payout odds.

(b) The conduct of the supercard game involves the conforming of numbers on supercard opportunities with the numbers called during the course of the bingo game and contained in the 15 vertical lines displayed on the bingo board. Each winning supercard opportunity shall contain the designated amount of numbers which have been called and appear in the appropriate vertical line displayed on the bingo board.

(c) The amount paid to a winner or winners in a supercard game in conformity with these rules shall constitute a payout and not a prize.

(d) The total amount of the payouts awarded for the supercard games shall not count toward the total amount of prizes awarded for the bingo games conducted during the licensed bingo occasion.

(e) The payout for each winning supercard opportunity shall not exceed the odds of 12 to 1, that is, a payoff of \$ 13 for each \$ 1 bet.

(f) Supercard opportunities shall be offered to players in horizontal rows, each row containing 15 supercard opportunities numbered 1 through 15 corresponding with the 15 vertical lines displayed on the bingo board. No supercard game shall commence unless at least 13 differently numbered supercard opportunities from the horizontal row have been sold. Supercards sold in combinations or units comprised of opportunities to participate in more than one supercard game per occasion may also be offered for sale singly or in units comprised of several opportunities to participate in a single supercard game. Each supercard shall bear the appropriate serial number and the name and/or Board approved logo of the licensed bingo manufacturer or licensed bingo supplier.

(g) The licensed authorized organization shall not close its sale of supercard opportunities for a supercard game with less than 13 differently numbered supercard opportunities in the last horizontal row offered for sale. If less than 13 differently numbered supercard opportunities have been sold in the last horizontal row, refunds shall be made to the appropriate purchasers of the less than 13 supercard opportunities before the commencement of the supercard game.

(h) The supercard game shall end when the designated amount of numbers have been called in the appropriate vertical line and a winner(s) has been declared.

(i) When the supercard game ends before the completion of the concurrent bingo game, the licensed authorized organization shall continue the conduct of such bingo game until its completion.

(j) When the concurrent bingo game ends before the completion of the supercard game, the licensed authorized organization shall continue the conduct of such supercard game until its completion.

(k) The licensed authorized organization shall complete the financial statement of bingo operations (form BC-7) and the quarterly summary statement of bingo operations (form BC-7Q) by listing the required information in the appropriate sections.

#### 5820.49 Player select game; use of board-approved player select face-cards

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

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

(b) Prior to the commencement of the game, each participating player enters the bingo numbers of his or her choice, ranging from one to seventy-five, inclusive, into the blank spaces on the player select card. No number entered on the same player select card shall be repeated;

(c) The completed original player select card is retained by the licensed authorized organization and the carbon-less copy is provided to the purchasing player for use during the designated player select game;

(d) If the licensed authorized organization verifies that all of the numbers entered on a player select card and marked with a standard ink dauber by a player match the numbers announced by the bingo caller during the designated player select game, that player is declared a winner. If there are two or more winners in a single player select game, the established prize shall be divided equally among those winners in accordance with section 5820.27 of this Part;

(e) The prize in a player select game shall be listed on the application for the bingo license and on the licensed authorized organization's bingo program required under section 5820.39 of this Part; and

(f) The aggregate prizes awarded during the player select game and the regular or special game in which it is simultaneously played, if any, shall not exceed \$ 1,000 per game, nor \$ 3,000 per

occasion, unless the player select game is conducted as an early bird game, pursuant to section 5820.50 of this Part.

#### 5820.50 Early Bird game

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

- (a) Not more than two early bird games shall be conducted per bingo occasion;
- (b) Early bird games may be scheduled at any time during a licensed occasion;
- (c) Each early bird game, and the percentage of the receipts to be awarded as a prize therein, shall be listed on the application for the bingo license, on the license, and on the licensed authorized organization's bingo program, as required under section 5820.39 of this Part;
- (d) The prize awarded in any early bird game shall not exceed seventy-five percent of the receipts from the sale of early bird cards for such game;
- (e) No early bird card shall be sold less than ten minutes prior to the calling of the first object or ball in any early bird game;
- (f) The total receipts from the sale of early bird cards, and the amount of the prize to be awarded in each early bird game, shall be announced immediately prior to the calling of the first object or ball in such early bird game;
- (g) No player shall be required to pay more than one-dollar for a bingo opportunity bearing at least one face-card to participate in an early bird game. Additional early bird opportunities bearing multiple face-cards may be offered for sale at a price of more than one-dollar, provided the licensee's bingo program clearly lists the offering of at least a single face-card early bird card for one dollar or less and that such opportunities are visibly offered for sale;
- (h) The prize awarded during the conduct of an early bird game is not subject to the single prize limitation, nor is the prize considered part of the total series of bingo prizes imposed by subdivisions 5 and 6 of section 479 and paragraph (a) of subdivision 1 of section 481 of the General Municipal Law, or section 5820.25 of this Part; and

(i) Licensed authorized organizations conducting early bird games shall separately report the conduct of each Early Bird game on cash control report form BC-7.

#### 5820.51 Pre-drawn bingo game; use of board-approved tear-open or sealed bingo face-cards

Pre-drawn bingo game shall mean a special bingo game in which a predetermined number of bingo balls are pre-picked at random from the receptacle, and in which either a predetermined primary prize or a consolation prize will be awarded based on whether or not a player obtains a winning full-card bingo pattern in the number of calls specified in the application for bingo license and on the bingo program required by section 5820.39 of this Part. Pre-drawn bingo games may be conducted as an early bird game in which the primary and consolation prize is based on a percentage of the gross receipts from bingo opportunities sold pursuant to section 5820.50 of this Part, as a progressive game in which the primary prize is increased after each occasion that the winning pattern is not obtained within the specified number of calls pursuant to section 5820.20 of this Part, or the prizes may be based on fixed primary and consolation prizes listed on the organization's application for license and bingo program required under section 5820.39 of this Part. Each pre-drawn bingo game shall be conducted as follows:

- (a) The number of balls to be pre-drawn shall be listed on the application for bingo license and the bingo program required by section 5820.39 of this Part;
- (b) The time that the pre-drawing of the balls shall commence, and the time that the game will begin, shall be specified on the application for bingo license, and on the bingo program required by section 5820.39 of this Part;
- (c) The pre-drawing of the numbers shall begin not more than forty-five minutes prior to the start of the game, and shall not begin unless there are a number of players equal to at least ten percent of the bingo seating capacity present to verify the integrity of the pre-drawing of the numbered balls;
- (d) The initial number of calls required to win the primary prize shall not be less than forty-eight;
- (e) An announcement shall be made immediately prior to the start of the game informing all attendees of the maximum number of calls required to win the primary prize and the amount of the consolation prize in the event that a winning full-card pattern is not obtained within the specified number of calls. An inquiry shall then be made to determine whether or not there are any holders of winning bingo face-cards based on the pre-drawn numbers appearing on the display board. If there is a winner, the scheduled primary prize shall be awarded. If there is no winner, the caller shall immediately draw and announce an additional ball or balls until a winner

is determined, and either a primary prize or a consolation prize shall be awarded, depending on the number of calls required to obtain the winning full-card pattern;

(f) Pre-drawn bingo games shall be conducted using only board-approved tear-open or sealed bingo opportunities, which shall be constructed in such a manner, and of such material, so as to prevent the viewing of the numbers printed thereon until the purchasing player opens the opportunity by tearing off perforated edges or otherwise breaking a secured seal thereon enclosing the face-card. All bingo opportunities used in pre-drawn games shall be marked with indelible ink daubers;

(g) Tear-open or sealed bingo opportunities shall not be exchanged, except as otherwise permitted by section 5820.12 of this Part, unless the tear-open or sealed bingo opportunities provided in the exchange are of a different color and series than the opportunities originally sold, and that the player exchanging an opportunity is sold two of the different colored opportunities for the same price as the original opportunity surrendered. Each tear-open or sealed bingo opportunity exchanged shall be permanently defaced and retained by the licensed authorized organization until the BC-7 has been filed with the municipality;

(h) Pre-drawn bingo games shall be conducted either as the first game of an occasion, or as the first game following an intermission, unless the licensed authorized organization has an additional bingo receptacle, and at least one bingo display board or television monitor located in each room in which bingo is conducted designated and used solely to display the pre-drawn letters and numbers. The receptacle, the caller and the assistant caller pre-drawing balls from the receptacle shall be visible to the majority of players.

#### 5820.52 Quick bingo game; use of board-approved quick bingo face-cards

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

(a) Quick bingo games shall be conducted using only board-approved break-open or sealed bingo opportunities, which shall be constructed in such a manner, and of such material, so as to prevent the viewing of the numbers printed thereon until the purchasing player opens the opportunity by opening the perforated tabs or otherwise breaking a secured seal thereon enclosing the face-card;

(b) Quick bingo cards, once opened by the player, shall reveal a grid comprised of either nine spaces formed by three rows of three spaces each, or sixteen spaces formed by four rows of four spaces, each space bearing a number ranging from one to seventy-five, inclusive, none of which

shall be repeated on the same quick bingo card. The type-face of each number shall be sufficiently large to mark with a standard-sized indelible ink dauber;

(c) Quick bingo cards shall not be exchanged;

(d) The aggregate prizes awarded during a quick bingo game and the bingo game in which it is simultaneously played, if any, shall not exceed \$ 1,000 per game, nor \$ 3,000 per occasion;

(e) The dollar amount of each quick bingo prize shall be listed on the application for the bingo license and on the licensed authorized organization's bingo program required under section 5820.39 of this Part;

(f) If the licensed organization has verified that all of the numbers daubed by a player match the numbers announced by the bingo caller during the designated quick bingo game, that player shall be declared a winner. If there are two or more winners in a single quick bingo game, the established prize shall be divided equally among those winners in accordance with section 5820.27 of this Part;

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

#### 5820.53 House rules

Licensed authorized organizations shall adopt house rules to inform the players how situations not addressed by law, rule or regulation will be handled. Such house rules shall include, but need not be limited to, the licensee's policy stating whether or not seat reservations are permitted, how late calls of bingo will be addressed, the effects of electrical power interruptions, participation by minors, and the licensee's policies determining whether or not a player's winning bingo pattern must contain the last number called in that game, and whether or not another ball must be drawn and announced when a single player obtains two parts of a multiple-part game on the same call. House rules shall be prominently posted, listed in the bingo program required by section 5820.39 of this Part, and shall be audibly announced prior to the commencement of each licensed bingo session.

#### 5820.54 Seat reservations

Licensed authorized organizations shall, pursuant to section 5820.53 of this Part, adopt a house

rule either permitting or denying their members in charge the authority to reserve seats for players, and shall include that house rule in its bingo program required by section 5820.39 of this Part. When seat reservations are permitted, each player shall be afforded an equal opportunity to reserve a seat. Seats may be reserved with "Reserved Seat" signs but, under no circumstances, shall seats be reserved by placing bingo opportunities, daubers or other supplies on tables before unoccupied seats. Licensed authorized organizations opting not to permit seat reservations shall adopt a house rule prohibiting seat reservations entirely.

#### 5820.55 Leasing of bingo equipment

Manufacturers and suppliers licensed by the Board may lease bingo blowers, receptacles, display boards, face-card verifiers and other equipment integral to the operation of bingo to:

- (a) an authorized organization that is licensed to conduct bingo;
- (b) any apartment, condominium or cooperative complex, retirement community, or other group residential complex or facility located within a municipality that has authorized the conduct of bingo games by authorized organizations where:
  - (1) such games are sponsored by the operator of or an association related to such complex, community or facility;
  - (2) such games are conducted solely for the purpose of amusement and recreation of its residents;
  - (3) no player or other person furnishes anything of value for the opportunity to participate;
  - (4) the value of the prizes shall not exceed ten dollars for any one game or a total of one hundred fifty dollars in any calendar day;
  - (5) such games are not conducted on more than fifteen days during any calendar year; and
  - (6) no person other than an employee or volunteer of such complex, community or facility conducts or assists in conducting the game or games.
- (c) any bona fide social, charitable, educational, recreational, fraternal or age group organization, club or association located within a municipality that has authorized the conduct of bingo games by authorized organizations solely for the purpose of amusement and recreation of its members or beneficiaries where:

- (1) no player or other person furnishes anything of value for the opportunity to participate;
  - (2) the value of the prizes shall not exceed ten dollars for any one game or a total of one hundred fifty dollars in any calendar day;
  - (3) such games are not conducted on more than fifteen days during any calendar year;
  - (4) no person other than a bona fide active member of the organization, club or association participates in the conduct of the games; and
  - (5) no person is paid for conducting or assisting in the conduct of the game or games.
- (d) a hotel, motel, recreational or entertainment facility or common carrier where such game is played as a social activity solely for the purpose of amusement and recreation of its patrons within a municipality that has authorized the conduct of bingo games by authorized organizations where:

- (1) no player or other person furnishes anything of value for the opportunity to participate;
- (2) the value of the prizes shall not exceed ten dollars for any one game or a total of one hundred fifty dollars in any calendar day;
- (3) such games are not conducted on more than fifteen days during any calendar year;
- (4) no person other than an employee or volunteer conducts or assists in conducting the game or games; and
- (5) the game or games are not conducted in the same room where alcoholic beverages are sold.

(e) a licensed commercial lessor that has received written approval from the board to purchase or lease bingo blowers, receptacles, display boards and other supplies or equipment integral to the operation of a licensed commercial lessor. The provisions of this Subtitle shall not be construed so as to authorize or permit a licensed commercial lessor to sell, loan or act as a lessor of any bingo supplies or equipment.

5820.56 Tri-color bingo game; use of board-approved tri-colored bingo opportunities

Tri-color bingo is a game using disposable bingo opportunities comprised of three different

colored face-cards, wherein a different dollar amount is offered as a prize for each of the three colors. Tri-color bingo shall be conducted as follows:

- (a) Tri-color bingo shall only be conducted using board-approved bingo opportunities marked with indelible ink daubers;
- (b) Tri-color bingo games may be conducted as an early bird game in which the prize for each of the three colors is based on a percentage of the gross receipts from the sale of bingo opportunities to participate in that game, pursuant to section 5820.50 of this Part, or the prizes may be based on fixed dollar amounts awarded for each color. In either case, the percentage of sales to be awarded for each color, or the dollar amount of the fixed prize to be awarded for each color, shall be listed on both the organization's application for license and the bingo program required under section 5820.39 of this Part;
- (c) The dollar amount of the prize to be awarded in each color category shall be announced prior to the calling of the first number in each tri-color game;
- (d) When it is determined that there is one winner in a tri-color game, the winner shall be awarded the prize corresponding with the color of the winning face-card;
- (e) When it is determined that there are multiple winners in a tri-color game on face-cards of the same color, the dollar amount of the prize corresponding with that color shall be divided by the number of winners, and each winner shall be awarded an equal share; and
- (f) When it is determined that there are multiple winners in a tri-color game on face-cards of different colors, the winner in each color shall be awarded the dollar amount of the prize scheduled for that color, divided by the total number of winners in all colors for that game. For example, if there are three winners on one color, two winners on a second color and one winner on the third color, the three winners on the first color will each be awarded one-sixth of the dollar amount of the prize for that color; the two winners on the second color will each receive one-sixth of the dollar amount of the prize for the second color; and the sole winner on the third color shall be awarded one-sixth of the dollar amount of the prize for the third color.

#### 5820.57 Bonus ball

Bonus ball is a special bingo game played in conjunction with one or more regular and/or special bingo games that have been designated by the licensed authorized organization on its application for bingo license and on the bingo program required by Section 5820.39 of this subtitle as "Bonus Ball Games" and in which a "Bonus Ball Prize" is awarded to the player acquiring the

designated winning bingo pattern when the last number called and marked by that player is identical to the "Bonus Ball Number".

1. a. Bonus ball may be conducted during single occasions, and during each occasion of multiple occasion bingo sessions known as Double Headers and Triple Headers, as described in subdivision 2 of this section, provided the licensed authorized organization adheres to all of the provisions of this Subtitle related to the determination of the Bonus Ball Number, the sale of opportunities to enroll in bonus ball, and the establishment, awarding, or carrying-over of the bonus ball prize. b. The "Bonus Ball Number" is determined for each occasion by the bingo caller's drawing of a bingo ball from the receptacle, the caller's announcement that the ball drawn is the Bonus Ball Number for that occasion only, the prominent posting of the Bonus Ball Number in an area of the bingo premises visible to the majority of players, and the immediate return of that ball to the receptacle. The Bonus Ball Number must be determined, announced and prominently posted prior to the start of the first bingo game in each occasion.

c. To be eligible to participate in bonus ball, each player must pay a fee for that opportunity prior to the start of the first bingo game in an occasion wherein bonus ball will be played. To verify payment, the player shall be issued a bonus ball receipt unique to that occasion, or some similar method of verifying payment must be used, such as stamping the player's hand with ink, or indelibly marking their bingo cards to reflect payment. d. The fee for a single opportunity to participate in bonus ball, which cannot exceed one dollar, entitles each participating player to compete in all bingo games conducted during an occasion that are specified as bonus ball games in the authorized organization's application for bingo license, and on the bingo program required by Section 5820.39 of this subtitle.

e. All sales of opportunities to play bonus ball must cease prior to the caller's announcement of the total amount collected from the sale of opportunities to participate in bonus ball and the amount of the bonus ball prize.

f. The total amount collected from the sale of opportunities to participate in bonus ball and the amount of the bonus ball prize must be announced by the caller at least fifteen minutes prior to the start of the first bingo game designated as a bonus ball game in each occasion. g. If a winner of a designated bonus ball game is verified, a bonus ball prize consistent with subdivision h below shall be awarded to the winning player, and the caller shall declare the bonus ball game closed for the remainder of that bingo occasion. h. Each winner of a bonus ball game shall be awarded a cash prize equal to a percentage of the proceeds collected from the sale of opportunities to participate in bonus ball, which cannot exceed seventy-five percent of the proceeds derived from such sales. The remaining percentage of the proceeds from those sales, which cannot be less than twenty-five percent, is retained by the licensed authorized organization as profit. The percentage of sales used to calculate bonus ball prizes must be consistently applied

at all occasions, as specified in the licensed authorized organization's application for bingo license, on the license, and on the bingo program required by Section 5820.39 of this Subtitle.

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

j. Bonus ball prizes are exempt from the single game prize limitation of \$ 1,000 and the \$ 3,000 limit on the series of prizes imposed by Subdivisions 5 and 6 of Section 479, paragraph (a) of Subdivision 1 of Section 481 of the General Municipal Law, and Section 5820.25 of this Title. However, as detailed in Subsection i above, no bonus ball prize can exceed the sum of \$ 6,000, pursuant to Subsection 11-b of Section 1 of Section 476 of the General Municipal Law.

k. Although the prizes awarded in Bonus Ball games are comprised of a predetermined percentage of the proceeds collected from the sale of opportunities identical to the prizes awarded in Early Bird bingo games defined in 5800.1 (h) and conducted pursuant to Section 5820.50 of this Subtitle, Early Bird and Bonus Ball are two distinctly separate bingo games. Authorized organizations may be licensed to conduct two Early Bird games per occasion, and can also designate any or all of the regular and/or special bingo games conducted during that occasion to be Bonus Ball games.

2. Opportunities to participate in both occasions of a double-header or all three occasions of a triple-header session may be sold prior to the first occasion in such sessions, provided;

a. The proceeds from the total sales of bonus ball opportunities are, prior to the start of the first occasion, divided into two equal parts for a double header, and three equal parts for a triple header, and that those parts shall be subdivided according to the percentages specified on the application for the bingo license to form the percentage of such funds to be retained by the licensee as the profit for each occasion, and the percentage of the proceeds to be available as separate prizes in each of the occasions in the session, and b. The bonus ball number must be determined by a drawing of a bingo ball from the bingo receptacle, and it must be announced; prominently posted in the area of the bingo premises occupied by the majority of players; and shall be returned to the receptacle prior to the start of the first bingo game in each occasion in

which bonus ball is conducted, unless the application for bingo license specifies that the bonus ball number drawn prior to the first game in the first occasion of a double header or triple header session shall be designated the bonus ball number for all of the occasions conducted during that session.

## **PART 5821. FINANCIAL STATEMENT OF BINGO OPERATIONS**

### **§ 5821.1 Financial statement form**

The financial statement of bingo operations required by ordinance or local laws, State laws and this Chapter shall be on form BC-7 and in the case of limited period bingo, on form BC-9, each as prescribed by the board. The licensee shall execute and file the original of the report with the clerk of the municipality within seven days after the conclusion of each occasion. Within 15 days after the end of each calendar quarter during which there has been any occasion of bingo, a summary statement of such information shall be on form BC-7Q, as prescribed by the board. The licensee shall execute and file the original of the quarterly report with the Racing and Wagering Board and a copy with the clerk of the municipality. The licensee shall retain a copy of each report for its permanent records.

### **5821.2 Cash control report**

The Racing and Wagering Board requires every licensee to attach and file with its financial statement an additional statement (form BC-7B), as prescribed by the board, setting forth each item of receipt relating to the sale of bingo opportunities, the names of the workers charged with such sales, bingo supplies sold and rent received.

### **5821.3 Additional license fee**

Upon the filing of the financial statement of bingo operations, the licensee shall pay to the clerk of the municipality as an additional license fee a sum in the amount of three per centum of the reported net proceeds, if any, for the occasion covered by such statement.

### **5821.4 Report when no games are played**

When no games are held on any date when a license authorizes them to be held, a report to that effect must be filed with the clerk of the municipality and the Racing and Wagering Board.

#### 5821.5 Reports delinquently filed

(a) The municipal governing body shall not issue a further license to an authorized organization found to be delinquent in filing its financial statement or summary statement of bingo operations. Upon such finding or upon notification to the municipal governing body by the Racing and Wagering Board, the municipal governing body shall forthwith suspend any existing license and cancel the unexpired term thereof.

(b) If a licensee fails to file a financial statement or summary statement of bingo operations as required by this Part, within five days after notification by the municipal governing body or the Racing and Wagering Board of their delinquency, their license shall be suspended pending the filing of the required financial statement or summary statement of operations.

#### 5821.6 Reports defectively filed

If the financial statement or summary statement of bingo operations filed by a licensee is not properly verified, or not fully, accurately and truthfully completed, no further license shall issue to it, and any existing license shall be suspended until such time as the default has been corrected.

#### 5821.7 Non-bingo books and records available for examination

Before any bingo funds are expended for noncharitable purposes, the licensee organization shall utilize all other sources or potential sources of income to discharge such noncharitable and operating expenses ordinarily incurred. Only in such manner can the organization ensure a maximum availability of the net proceeds of bingo exclusively for application to the worthy causes and undertakings specified in the Bingo Licensing Law. Any licensee organization which is disbursing bingo funds for noncharitable purposes shall make its general fund and all other books and records available for examination by the Racing and Wagering Board or the municipal governing body or their representatives.

#### 5821.8 Special bingo account

Each licensee shall maintain one bingo account which shall be designated the "special bingo account" and which shall be in the form of a regular checking account. Into this account shall be

deposited all and only monies received from the sale of admission cards, regular bingo cards, extra regular bingo cards, special game cards, limited period bingo cards, supplies, rentals of premises for the conduct of bingo, if any, and all other receipts derived from the conduct of bingo less the amount awarded in cash prizes. Deposits shall be made intact and no later than the next business day following the date of a bingo occasion.

#### 5821.9 Method of withdrawal

All monies withdrawn from the special bingo account shall be only by checks having preprinted consecutive numbers, signed by at least two duly authorized officers of the licensee and made payable to a specific person, firm, partnership or corporation with the purpose specified on the check stub, and at no time shall a check be made payable to cash. All checks must be accounted for in the appropriate part of the Financial Statement of Bingo Operations (form BC-7) or quarterly summary statement of bingo operations (form BC-7Q).

#### 5821.10 Purposes of withdrawal

Monies withdrawn from the special bingo account shall only be for one or more of the following purposes:

- (a) the payment of necessary and reasonable expenses incurred in connection with the conduct of bingo, which shall consist of bingo supplies and equipment, rent if premises where bingo is conducted are rented, bookkeeping or accounting services according to the schedule of compensation prescribed by the Racing and Wagering Board, janitorial services and utility supplies, license fees, and the cost of bus transportation, if authorized by the Racing and Wagering Board;
- (b) the disbursement of net proceeds derived from the conduct of bingo for one or more of the lawful purposes defined in the Bingo Licensing Law and this Subtitle, regulations and bulletins of the Racing and Wagering Board;
- (c) the transfer of net proceeds derived from the conduct of bingo into one or more interest-bearing accounts, pending a disbursement for one or more of the lawful purposes defined in the Bingo Licensing Law and this Subtitle, regulations and bulletins of the Racing and Wagering Board.

#### 5821.11 Direct disbursement from interest account prohibited

The disbursement of net proceeds on deposit in an interest-bearing account for one or more of the lawful purposes defined in the Bingo Licensing Law and this Subtitle shall be made by transferring the amount of the intended disbursement back into the "special bingo account" and then withdrawing the amount therefrom in the manner prescribed in section 5821.9 of this Part.

#### 5821.12 Commingling prohibited

The commingling of monies derived from the conduct of bingo with any other funds of the licensee is strictly prohibited. At no time shall a disbursement of these monies be for the purpose of transferring such monies, in whole or in part, to any other bank account maintained by the licensee, except as provided in section 5821.10(c) of this Part.

#### 5821.13 Bookkeeping system required

Each licensee shall maintain a single-entry bookkeeping system for the purpose of recording all receipts and expenditures in connection with the conduct of bingo and the disbursement of net proceeds derived therefrom. Such bookkeeping system shall consist of a columnar book prepared in the manner shown in Exhibits 1 and 2 infra (see Appendix T-1 of this Title) and shall be maintained on a calendar or fiscal year basis. The functions of bookkeeper and duly authorized signer of checks shall not be performed by the same person.

#### 5821.14 Books and records available for examination

The books of account shall be kept up-to-date. The columnar book, deposit books, savings account passbooks, cancelled checks, checkbooks, deposit slips, bank statements and copies of Financial Statements of Bingo Operations (form BC-7) for the previous 18 months and all other books of account shall be available at all bingo occasions and other reasonable times for examination by the Racing and Wagering Board or the municipal governing body or their representatives. All documents supporting the entries made in the books of account shall be kept by the licensee for a period of no less than four years. These documents include, but are not limited to, bank statements, cancelled checks, deposit slips and invoices for all expenditures.

#### 5821.15 Financial report to membership

Each licensee shall require its treasurer or its duly designated officer to report in writing to its chief officer and membership, at least once a month, the number of occasions of bingo played, the gross receipts, the amount of prizes paid and the net profit or loss for each bingo occasion. The chief officer shall require that all of the documents specified in section 5821.14 of this Part be exhibited at each such meeting and such items shall be open to individual membership inspection. Such information must be incorporated in the minutes or proper records of each licensee. Where a licensee is an auxiliary or an affiliate of a parent organization, a copy of the written report shall be filed with the executive officer of the parent organization and incorporated in its minutes.

#### 5821.16 Deposit of bingo funds

All monies derived from the conduct of bingo must be deposited and kept in banks located within the boundaries of New York State. When said monies are deposited into a checking account, the account shall be designated "special bingo account"; when deposited into an interest-bearing account or federally insured money market account, the account shall be designated "special bingo savings account." Every licensee shall designate its president or chief officer to receive from the bank the monthly bank statements, cancelled checks of the special bingo account and the records of all other bingo accounts who shall verify and reconcile the BC-7's, BC-7Q's, original bank deposit slips, books and records with the treasurer at least monthly.

#### 5821.17 Notification and expenditure of funds after cessation of bingo

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

(a) disburse said funds for lawful purposes within a period of one year after the cessation of the conduct of bingo; or

(b) disburse said funds in accordance with a plan of expenditure approved in advance by the Racing and Wagering Board.

#### 5821.18 Lawful expenditures

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

(1) prizes;

(2) purchase and rental of bingo equipment, tables and chairs, public address systems, and bingo cards;

(3) approved rental fees, paid to licensed commercial lessors or to another licensed authorized organization;

(4) payments for janitorial and custodial services, guard service, preparation of BC-7 and BC-7Q forms, and a monthly bookkeeping system;

(5) all bingo license fees paid to the municipality. License fees shall be reported on line B(3) of forms BC-7 and BC-7Q; additional license fees shall be reported on line C(2) of forms BC-7 and BC-7Q;

(6) other necessary bingo expenses, such as printing bingo forms, prize schedules (programs), and house rules; postage, advertising, or bank expenses or charges incurred directly for bingo purposes; fidelity bonds for persons responsible for bingo funds; repairs to bingo equipment; and insurance premiums if the premium directly related to bingo is separate and distinct; and

(7) the direct cost of bus transportation, if authorized by the board.

(b) The following donations and other expenditures specified for lawful purposes are permissible and do not require prior board approval. These expenditures shall be reported in part E on forms BC-7 and BC-7Q:

(1) to nationally, statewide or locally recognized charitable organizations;

(2) for patriotic, civic, and community projects such as activities, observances, or memorials associated with Memorial Day, Independence Day, or Veterans' Day. These expenditures may include the cost of uniforms, instruments, and travel to enable musical bands to participate in such events;

(3) to nationally, statewide or locally recognized athletic, recreational, or civic programs serving youth;

(4) For educational purposes, such as books or equipment for libraries, schools, or other chartered educational organizations; teacher salaries; exchange student programs; and scholarships that are open to community students, where the recipients are not limited to children of, and the selection committee is not dominated by, members of the licensee or its auxiliaries or affiliates;

(5) for religious purposes and activities, such as clerics' salaries, maintenance of religious buildings, and purchase of religious supplies;

(6) for fire-fighting activities and volunteer ambulance corps, such as expenditures incurred in providing services in case of fire, accidents, sudden severe illness, public calamity, or other emergencies; purchase of vehicles, apparatus, equipment, and uniforms; attending training schools and inspections; participation in drills and exhibitions; membership fees of the licensee in fire-fighting and emergency medical technician associations;

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

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

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

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

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

(i) no more than \$ 10,000 per calendar year for materials and labor for building repairs that are necessary for normal maintenance, such as electrical, roofing, heating, hardware, paint, and lumber;

(ii) janitorial and custodial salaries, including payroll taxes;

(iii) janitorial and cleaning supplies;

(iv) utilities, including electricity, heat, and water;

(v) rubbish and snow removal;

(vi) insurance, including fire, workers' compensation, public liability, burglary, robbery, and property damage;

(vii) real estate taxes;

(viii) telephone charges;

(ix) printing and mailing charges; and

(x) no more than \$ 5,000 per calendar year for legal, accounting or other professional fees.

(4) all organizations, with the exception of veterans' organizations, shall submit and have approved by the board form BC-317 (Application for Permission to Disburse Net Proceeds of Bingo), prior to disbursing bingo funds for any of the following purposes. A veterans' organization may disburse bingo funds for such purposes, provided a copy of the organization's minutes from a membership meeting authorizing the expenditure(s) are filed with the board;

(i) mortgages;

(ii) rent paid to lessors other than for bingo;

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

(iv) purchase of air conditioning units, furniture, furnishings, office and kitchen equipment, and motor vehicles;

(v) repair, maintenance and acquisition of parking lots;

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

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

(d) The following expenditures are never a permissible use of bingo funds, except by a veterans' organization whose members have, in strict compliance with its own charter and bylaws, authorized the same and filed the minutes of that membership meeting with the board:

(1) entertainment or social activities for the benefit of members of the licensee organization, its auxiliaries or affiliates. Bingo funds can never be used for the exclusive benefit of members of the licensee organization, its auxiliaries or affiliates;

(2) convention expenses for delegates of the licensee organization, its auxiliaries or affiliates;

(3) any expenses connected with bars or the dispensing of alcoholic beverages;

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

(5) expenses and salaries connected with other fund raising activities, such as the operation of food service facilities and concessions.

(e) The following expenditures are never a permissible use of bingo funds:

(1) welfare, sick, or death benefit funds for members and families;

(2) dues and assessments;

(3) gifts or loans to members of the licensee organization, its auxiliaries or affiliates; and

(4) tickets purchased from profit or not-for-profit organizations, such as theatre tickets or raffle tickets, for use by members.

(f) Interest-bearing accounts.

(1) Pending disbursement, bingo funds may be transferred from the special bingo checking account into one or more interest-bearing savings accounts, money market accounts, certificates of deposit insured by the U.S. Government, or U.S. Treasury Bills. Each such interest-bearing account shall be designated a special bingo account, and these funds shall remain part of the unexpended balance of bingo funds at all times. Prior approval by the board of such inter-account transfers is not required, but a memo describing each transfer shall be filed with the applicable financial statement to the board. Such memo shall recite the date, check number, amount, and a complete description of the account into which the bingo funds were transferred, including the account number and the bank name, address, and telephone number.

(2) No disbursement may be made directly from any interest-bearing account; the funds must be re-deposited into the special bingo checking account and then processed in compliance with section 5821.9 of this Part.

(3) Where a building fund is established by an organization, it must be administered in accordance with the provisions of paragraphs (e)(1) and (2) of this section. In addition, for all organizations except veterans, expenditures from a building fund are permissible only if the board, having received form BC-317 from the organization, gives prior written approval. For an organization of veterans, these expenditures are permissible only if the minutes from a membership meeting authorizing it are filed with the board.

(4) Interest earned in an interest-bearing account shall remain part of the unexpended bingo balance at all times and shall be reported at least once a year on line E(4) of form BC-7 and on line (D)(3) of form BC-7Q.

## **PART 5822. CONDUCT OF BINGO IN LEASED PREMISES**

### § 5822.1 Validity of rental agreement

No agreements or arrangements for the rental or use of premises for the conduct of bingo shall be valid and no monies paid by licensed authorized organizations for rental or use of premises shall be allowable expenditures in determining net proceeds unless made in accordance with the provisions of this Subtitle.

### 5822.2 Rental not to be determined by number of persons attending

No agreement or arrangement for the use of premises for the conduct of bingo shall provide that

the rental or charge for the use of such premises be on a percentage basis or according to the number of persons attending any occasion.

#### 5822.3 Rental not to be determined by receipts or net profits

No bingo games shall be conducted on or within any leased premises if rental under such lease is to be paid wholly or partly, on the basis of a percentage of the receipts or net profits derived from the conduct of such games.

#### 5822.4 Premises usable for bingo

No premises shall be used or allowed to be used for the conduct of bingo unless the same are either:

- (a) owned or occupied by the licensed authorized organization conducting the games; or
- (b) rented or provided pursuant to the provisions of the Bingo Licensing Law and this Subtitle.

#### 5822.5 Limitations upon lessors

(a) No lessor shall rent, or allow the use of, any premises for the conduct of bingo by a licensed authorized organization unless such lessor is:

- (1) itself a licensed authorized organization; or
- (2) a licensed authorized commercial lessor; or
- (3) a municipality or a municipal corporation; or
- (4) a donor of premises who has been approved by the Racing and Wagering Board; or
- (5) one, approved by the Racing and Wagering Board, who charges a nominal rent which has also been approved by the Racing and Wagering Board.

(b) The provisions of this section shall not authorize or permit an organization licensed to conduct bingo to lease out for bingo any designated area that is simultaneously needed by it for other activities or is used mostly as a bingo premises.

#### 5822.6 Reporting of rental income

Every licensed authorized organization which rents its premises for the conduct of bingo shall execute and file form BC-7 in the manner prescribed in section 5821.1 of this Subchapter, so as to reflect its gross rental income and amounts expended for janitorial services and utility supplies.

#### 5822.7 Effect of revocation

No licensed authorized organization which has had its identification number or bingo license revoked shall, after 30 days of the effective date of revocation, rent or allow the use of its premises for the conduct of bingo.

#### 5822.8 Effect of suspension

No licensed authorized organization which has voluntarily suspended the conduct of bingo for a period beyond three continuous months or has had its bingo license suspended by competent authority for a period beyond six months, or indefinitely, shall rent or allow the use of its premises for the conduct of bingo.

#### 5822.9 Written agreement required

No premises shall be rented or allowed to be used for the conduct of bingo unless all of the terms and conditions of such rental or use are set forth in a written agreement on form BC-116 as prescribed by the board. Any and all changes, modifications or additions to said form BC-116 must be submitted in writing in advance to the licensing authority and the Racing and Wagering Board for approval prior to execution. The term of such agreement shall run concurrently with and not beyond the expiration of the lessor's license. Under no circumstances shall the agreement provide for a rental in excess of the schedule appearing in the lessor's license.

#### 5822.10 Written agreement to be filed

No agreement for the rental or use of any premises for the conduct of bingo shall be valid unless the entire agreement is in writing, signed by the parties thereto, executed copies of which have

been filed with the licensing authority and the Racing and Wagering Board at least 15 days prior to the date of, any occupancy or use thereunder. Where the proposed agreement is between two licensed authorized organizations, application must first be made by the lessor to the licensing authority to obtain approval of the rent to be charged, which application must be accompanied by a copy of the proposed agreement. The licensing authority shall consult with the board prior to approving any rental agreement.

#### 5822.11 Mandatory provisions

No agreement for the rental for use of any premises for the conduct of bingo shall be valid unless the same shall contain the following provisions, terms, and conditions:

- (a) that the lessor will make no charge, nor receive nor accept any money or anything of value from the licensed authorized organization other than the payment expressly provided in such agreement;
- (b) that the lessor will enter into no agreement, arrangement or transaction with a licensed authorized organization other than for the rental of premises which includes the rental of chairs and tables and janitorial services as provided in the agreement, and a schedule of bingo equipment furnished, if any, and public liability insurance provided, if any;
- (c) that neither the lessor nor any person having an interest in the lessor nor any officer, director, stockholder, employee, agent or servant of the lessor or a person married or related in the first degree to such a person, shall conduct, participate, advise or assist in the conduct of bingo, render any service, or loan money or anything of value to anyone conducting, participating or assisting in the conduct of bingo or prepare any form pertaining to bingo at any time during which the same may be in effect. The provisions of this subdivision shall not apply to any real estate holding corporation of any authorized organization as defined in the Bingo Licensing Law;
- (d) that no payments shall be made to the lessor or accepted by the lessor except by check;
- (e) that the licensed authorized organization will not allow on the premises during the conduct of bingo any person or persons directed by the licensing authority or the Racing and Wagering Board to be kept off the premises;
- (f) that all of the terms, covenants and conditions of the agreement shall be subject to amendment, supplement, modification or change as may be required by any statute, rule, regulation, directive or order of the State of New York, the Racing and Wagering Board or the licensing authority, thereafter enacted or adopted, but in that event either party to the agreement

shall be entitled to terminate the agreement at any time thereafter on seven days' written notice;

(g) that the lessor shall at all times comply with every statute, rule, regulation, directive or order enacted or adopted by the State of New York, the Racing and Wagering Board or the licensing authority, as it may apply to the lessor;

(h) that any lessor or any person having an interest in the lessor or any officer, director, stockholder, employee, agent or servant of the lessor or any one connected with the foregoing who shall receive any money or anything of value directly or indirectly from the licensed authorized organization on or after the date on which such lessor shall violate any term, covenant or condition of the agreement or of any statute, rule, regulation, directive or order enacted or adopted by the State of New York, the Racing and Wagering Board or the licensing authority applicable to such lessor, shall be required to repay and refund any and all monies and things of value so received from the date of such violation and until such violation shall cease, to the licensed authorized organization upon request of such organization, the Racing and Wagering Board or the licensing authority;

(i) a statement setting forth the authorized commercial lessor's license number and the identification number of the organization to which the premises are rented.

#### 5822.12 Time during which agreement is effective

No agreement for the rental or use of premises for the conduct of bingo shall be valid for a period beyond one calendar year from the effective date thereof. A licensed authorized organization shall not be denied the right to a renewal of its agreement for rental or use of the lessor's licensed premises for the conduct of bingo unless good and sufficient cause is shown by the lessor upon application to the municipal licensing authority.

#### No .13

#### 5822.14 Register required

Every authorized commercial lessor shall keep and maintain a register in which shall be entered a record of all days reserved for rental to or use by any licensed authorized organization for the conduct of bingo and a record of rental and use, which record shall indicate:

(a) the date and portion of the day reserved;

- (b) the name and identification number of the licensed organization;
- (c) the amount to be charged for the rental or use;
- (d) a statement as to whether the premises were so used on the day reserved;
- (e) a description of the check received in payment of the rental or charge made, including date, bank, check number, payee and amount.

#### 5822.15 Report of bingo rental receipts

On or before the 10th day of each month, every authorized commercial lessor shall file a statement of bingo rental receipts for the preceding month on form BC-204 as prescribed by the board or facsimile of same with the licensing authority of the municipality where the premises are located disclosing:

- (a) authorized commercial lessor's name, name of hall and license number;
- (b) location of premises;
- (c) date and amounts of payments received;
- (d) names, identification numbers, bingo license numbers of organizations which conducted bingo and each date each organization conducted bingo. Two copies of said report shall be mailed by the authorized commercial lessor to the Albany office of the commission.

#### 5822.16 Lessor may only make premises available to licensed organization

No lessor shall make his or its premises available for the conduct of bingo to other than an authorized organization licensed to conduct bingo.

#### 5822.17 Loaning or borrowing of money by lessor prohibited

No lessor or any person having an interest in the lessor or any officer, director, stockholder, employee, agent or servant of the lessor or any person connected with any of the foregoing, shall loan, advance or give money or anything of value to, or borrow money or anything of value

from, any authorized organization licensed to conduct bingo or any person who is an officer of any such organization or who is in charge of or assists in the conduct of bingo, nor guarantee or endorse any note or indemnify or agree to indemnify the licensed authorized organization against any loss incurred in its bingo operations.

#### 5822.18 Lessor to notify licensing authority of all changes in structure

An applicant for a license as an authorized commercial lessor, shall, during the pendency of the application, notify the licensing authority immediately of any change respecting any facts set forth in the application. If any such change occurs after the issuance of the license applied for, the change must be reported to the licensing authority within 10 days of the date of the change. Furthermore, every licensed authorized commercial lessor shall notify the licensing authority of any change in its organization, structure, mode of operation, or of any change in the identity of persons named or required to be named in the application, or of the nature or extent of their interest, or of any other change respecting any facts set forth in the application, within 10 days of the date of such change. Failure to give the notice herein provided shall constitute sufficient cause for denial of a pending license or suspension or revocation of a license which has been granted.

#### 5822.19 Lessor to furnish additional information as required

Every authorized commercial lessor holding a license shall, at the request of the Racing and Wagering Board or the licensing authority where the premises are located, file such forms and furnish such information as may be required from time to time for the purposes of maintaining current and reliable information as to the continuance of the qualifications required for such license. Failure to file such forms or furnish such information shall constitute sufficient cause for suspension or revocation of a license which has been granted.

#### 5822.20 Display of license

A licensed authorized commercial lessor must prominently display its license or any amendment thereof on the premises where bingo is conducted.

#### 5822.21 Collection of rent

Rentals must be collected by the lessor within 48 hours after the holding of the bingo occasion.

#### 5822.22 Badges

The principals and all employees of the licensed commercial lessor and the food facility operator shall wear badges approved by the Racing and Wagering Board, containing the name of the wearer, his title or employment, photograph and the name of the licensed commercial lessor or food facility operator. Guards furnished by a watch, guard or patrol agency under contract to provide such service must have a badge and/or insignia indicating (a) the name of the agency-employer and (b) the name of the guard. Said badges or insignia shall be worn and visible to the public at all times when said persons are on the premises of the licensed commercial lessor.

#### 5822.23 Parties to food facility lease

The parties to any leasing agreement for the food facility located on the premises or serving the premises where bingo is conducted must be the licensed commercial lessor and the operator of the food facility. All such leases must be approved by the Racing and Wagering Board.

#### 5822.24 Special guards

(a) When a special guard is utilized at bingo occasions conducted on the premises of a licensed commercial lessor, said guard shall be provided for and paid by the lessor. In cities having a population in excess of one million, all licensed commercial lessors shall provide and pay for a special guard.

(b) Upon good and sufficient cause and written application by the lessor, the Racing and Wagering Board may dispense with the foregoing requirements. Copies of said application must be given to each tenant organization and the licensing authority at the time of filing with the Racing and Wagering Board.

(c) The duties of the special guard shall be to protect persons, property and money; maintain the peace and preserve order on the leased premises. The guard shall not perform any managerial services, services on behalf of the food facility operator or any duties to be performed by a bingo worker.

## **PART 5823. ELECTRONIC BINGO AIDS**

### § 5823.1 License required

No person, firm or corporation shall sell, lease or otherwise furnish electronic bingo aids to any authorized organization for use in conjunction with the conduct of licensed bingo games without having first obtained a license therefor as provided in article 14-H of the General Municipal Law and this Chapter.

### 5823.2 Board approval

No licensed bingo supplier may offer for sale, lease or otherwise furnish any electronic bingo aid unless the Racing and Wagering Board has approved such electronic bingo aid in writing. All electronic bingo aids sold, leased or used in the State of New York shall comply with the following requirements:

- (a) Each device or software program shall identify the name and license number of the licensed bingo supplier.
- (b) A sales record shall be recorded and retained for a period of not less than 12 months.
- (c) A receipt shall be provided to the player at the time of each sale, which shall reflect the amount paid by the player, the number of face cards to be played, date and time of sale, the name of the licensed authorized organization, and the registration identification number of the licensed authorized organization.
- (d) No electronic bingo aid shall emit any sound while in use by a player other than an audible alert unobtrusively notifying the user that a winning bingo pattern has been obtained on one or more of that player's bingo cards.
- (e) The Board or its designee may approve any other written requests for an electronic bingo aid change which ensures that the games are fairly and properly conducted and which enable individuals with disabilities to play the game independently.
- (f) Each player shall be required to manually enter the letter or number of the object or ball announced by the bingo caller into the electronic bingo aid, by means of pressing a button or touch-screen image. Automatic daubing features that mark the numbers called for the player, or permit the player to automatically "catch-up" with numbers previously announced by the caller

are prohibited.

(g) No electronic bingo aid shall resemble a slot machine or other game of chance, or be capable of accepting or electing anything of value, including but not limited to, currency, coin, token, credit card, or debit card.

(h) Every model of electronic bingo aid shall be certified in writing by an independent testing laboratory or a regulatory agency of another state approved by the Board, at the manufacturers' expense, that the electronic bingo aid meets the standards herein and that the erasable programmable read only memory modules (EPRNM) or other game program media logic storage or retrieval components cannot be altered, tampered with, replaced or otherwise programmed by anyone other than by the manufacturer without rendering the electronic bingo aid inoperable.

#### 5823.3 Inspections and demonstrations

(a) The Board shall require a demonstration and inspection of any electronic bingo aid prior to its approval.

(b) The governing municipal body or the Board may require a demonstration and inspection of any electronic bingo aid stored in any licensed bingo premises during normal business hours. Refusal by any licensee to submit an electronic bingo aid to such demonstration and inspection may result in the temporary suspension of approval to use such electronic bingo aid by the governing municipal body or the Board. In the event that a governing municipal body temporarily suspends the approval of use of such electronic bingo aid, it shall notify the Board of such suspension no later than 72 hours after such suspension takes effect.

(c) The governing municipal body or the board may request and the respective licensee shall provide a certified report of electronic bingo aid sales activity from any licensed bingo supplier or licensed authorized organization using or in possession of such electronic bingo aid.

#### 5823.4 Written agreements required

(a) No agreement for the rental, lease or use of any electronic bingo aid shall be valid unless the entire agreement is in writing, signed by the parties thereto, executed copies of which have been filed with the Board and the department or clerk of the governing municipality at least 48 hours prior to use of such electronic bingo aids.

(b) Licensed suppliers shall lease or sell electronic bingo aids only to licensed authorized

organizations licensed to conduct bingo or, if approved in writing by the Board, to commercial lessors. In cases where the licensed supplier leases electronic bingo aids to a licensed authorized organization, the licensed supplier may charge either a flat fee or a per-use fee. In cases where the licensed supplier leases electronic bingo aids to a commercial lessor, the licensed supplier shall only charge a flat fee for the use of such device and shall not charge on a percentage of net proceeds or a per-use basis, and the commercial lessor shall include the cost of the electronic bingo aids in the written lease with the licensed authorized organization consistent with Section 5820.10 of this title, provided that cost is unrelated to a percentage of net receipts or the number of units used.

(c) No agreement shall be enforceable by a supplier against an authorized organization beyond the term of a bingo license issued to such authorized organization. An agreement may contain an option clause to be exercised solely at the discretion of the authorized organization continuing the terms of a previous contract into a new license year.

(d) No agreement shall require that an organization purchase bingo face-cards, supplies, games of chance supplies or other bingo equipment exclusively from any supplier.

#### 5823.5 Multiple systems permitted

(a) An authorized organization may use or offer for sale or lease more than one electronic bingo aid system provided the total number of electronic bingo aid units in use at one time does not exceed 15 percent of the total bingo seating capacity of such premises and each system includes separate sales record programs as required under section 5823.2(b) of this Part.

(b) No lessor of bingo premises may store an electronic bingo aid on its premises unless such electronic bingo aid is leased to or owned by an authorized organization licensed to conduct bingo at such premises.

#### 5823.6 Reporting requirements

(a) In addition to the requirements of Part 5815 of this Title, a supplier of electronic bingo aids shall report to the Board:

(1) The number of electronic bingo aids shipped into New York State or to a federally recognized Indian tribe or nation located, wholly or in part, within the geographic boundaries of New York State;

(2) The serial number of each such electronic bingo aid; and

(3) The name and address of the licensee or federally recognized Indian tribe or nation in possession of such electronic bingo aids.

(b) The supplier or its agent shall submit such report to the Board at least 3 days prior to shipment of any electronic bingo aid into New York State.

(c) Any changes or modifications made to any electronic bingo aid, or replacement thereof after shipment into New York State reported to the Board pursuant to subdivision (a) of this section shall be reported to the Board by the supplier or its agent no later than 48 hours after such change, modification or replacement.

(d) Failure by any supplier to provide the notice herein required shall constitute cause for denial of a pending license, suspension or revocation of Board approval for an electronic bingo aid, or suspension or revocation of a license which has been granted.

#### 5823.7 Restrictions on the use of electronic bingo aids by authorized organizations

(a) No authorized organization shall require that a player use an electronic bingo aid.

(b) The price of computerized bingo face-cards, bingo paper face-cards and packages of bingo face-cards sold in conjunction with an electronic bingo aid shall be the same price per face-card as bingo cards, bingo face-cards or packages of face-cards sold to players not using an electronic bingo aid during the same bingo occasion.

(c) Only licensed bona fide members of a licensed authorized organization may lease electronic bingo aids to players, and only during the license period of such authorized organization.

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

(e) Not more than 54 computerized bingo face-cards per electronic bingo aid may be sold to one player per bingo game and programmed into an electronic bingo aid. This limitation shall not be construed to limit the number of traditional bingo face-cards, bingo paper face-cards or packages of face cards that a player may purchase. This is a maximum allowable amount and a licensed authorized organization may establish lower maximums at its discretion.

(f) No person shall be permitted to operate more than one electronic bingo aid during any bingo

occasion.

(g) No electronic bingo aid that is defective, has been physically damaged in any way, or has been otherwise tampered with shall be offered for use.

(h) Authorized organizations shall issue bingo face-cards to each player who has rented an electronic bingo aid. The font size on each bingo face-card shall be at least 16 point. No player shall be allowed to play any computerized bingo face-card that does not correspond with a bingo face-card issued to such player.

(i) Receipts shall be provided to each player with each purchase. In cases where reusable bingo cards are issued to a player, the player's receipt shall indicate the specific face-card numbers purchased by the player.

(j) Electronic bingo aids shall only be used in conjunction with traditional elements of bingo, and shall not replace any traditional element of bingo.

(k) Organizations shall report all sales related to the operation of electronic bingo aids on Form BC-7, line A-2, and Form BC-7B, line N.

## **SUBCHAPTER D. HEARINGS AND APPEALS**

### **PART 5830. HEARINGS**

#### **§ 5830.2 Proceedings respecting licenses issued pursuant to Bingo Licensing Law**

Proceedings to revoke a license issued pursuant to the Bingo Licensing Law may be instituted either by the municipal governing body or by the Racing and Wagering Board, on its own initiative or on complaint of any person, including any public official or agency.

#### **5830.3 Proceedings respecting licenses issued pursuant to Bingo Control law**

Proceedings to suspend or revoke a license issued pursuant to the Bingo Control Law may be instituted by the Racing and Wagering Board, on its own initiative, or on complaint of any person, including any public official or agency.

#### 5830.4 Licensee to be informed of revocation proceedings

Proceedings to revoke a license shall be brought by informing the licensee in writing of the grounds thereof and the date and place set for hearing thereon.

#### 5830.5 Notice of hearing

The municipal governing body or the Racing and Wagering Board, as the case may be, shall cause the notice of hearing to be served personally upon an officer of the licensee or a member in charge of the bingo games or to be sent by registered or certified mail to the licensee at the address shown in the registration or application for license. Notices of hearing shall be mailed or served personally, not less than five days prior to the date set forth in said notice for the holding of said hearing unless the Racing and Wagering Board, in its discretion, shall shorten the time fixed herein.

#### 5830.6 Persons to appear

Any person who would be aggrieved by the determination of the municipal governing body or the Racing and Wagering Board may appear and be heard in person or by duly appointed representative and may produce, under oath, evidence relevant and material to the charges preferred. A duly authorized representative of the licensee must appear in person on the date set forth in the notice of hearing and on all adjourned dates. The failure of the licensee to so appear will result in a determination by the municipal governing body or the Racing and Wagering Board by default.

#### 5830.7 Persons seeking immunity

Any person seeking immunity who is called to appear before the Racing and Wagering Board to answer questions or produce evidence at a hearing, inquiry or investigation, shall make written application therefor to the chairman not less than three days prior to his scheduled appearance before the Racing and Wagering Board.

#### 5830.8 Pleas to the charges

(a) In answer to the charges set forth in the notice of hearing, the licensee shall be afforded an

opportunity to plead thereto on or before the date fixed for the hearing.

(b) The licensee shall plead either "not guilty" or "no contest". If a plea of "not guilty" is entered, a date for hearing will be scheduled. If a plea of "no contest" is entered, a determination will be made by the racing and wagering board in due course.

#### 5830.9 Suspension prior to hearing

The racing and wagering board by any two members thereof or a duly designated hearing officer or the municipal governing body may, at any time during the course of a hearing, inquiry or investigation, suspend any license issued pursuant to the bingo licensing law, without hearing if, in its judgment, the continuance of the licensed activity is contrary to law or inimical to the public interest. Upon suspension, the municipal governing body or the racing and wagering board shall forthwith inform the licensee in writing of the grounds thereof and the date and place set for hearing thereon, said hearing to be held within 10 days after suspension.

#### 5830.10 Forthwith suspension of bingo game

The municipal governing body or the racing and wagering board may forthwith suspend the operation of any licensed bingo game pending hearing, in which case the hearing must be held within 10 days after such suspension.

#### 5830.11 Hearings open to public

All hearings on suspension and revocation of licenses held by the racing and wagering board shall be open to the public.

#### 5830.12 Municipal governing body to make written findings

When the suspension or revocation proceedings are begun before the municipal governing body which issued the license, it shall hear the matter and make written findings in support of its decision. The licensee and the racing and wagering board shall be notified immediately in writing of the decision and, in the event of a suspension or revocation, the effective date thereof.

#### 5830.13 Procedure prescribed for racing and wagering board

When suspension or revocation proceedings are begun before the racing and wagering board it shall dispose of the proceeding in the same manner as in the case of an appeal from a determination or action of the municipal governing body. Both the licensee and the governing body issuing the license shall be notified immediately in writing of the decision and in the event of a suspension or revocation, the effective date thereof.

#### 5830.14 Hearing upon application for new license or reinstatement

Any person, firm, corporation or organization licensed pursuant to the bingo control law or the bingo licensing law which has had its license or identification number revoked shall appear at a hearing before whichever authority revoked the license at the time of making application for a new license or identification number, or for reinstatement of either or both.

#### 5830.15 Persons authorized to conduct hearings

Hearings before the racing and wagering board shall be conducted by the chairman, another member of the racing and wagering board, or a duly designated hearing officer. The person conducting the hearings shall rule upon matters of procedure and the introduction of evidence and shall otherwise conduct the hearing in such manner as to preserve fundamental concepts of fairness and to effectuate the purposes and provisions of the bingo control law, the bingo licensing law and this Subtitle. At the conclusion of the hearings conducted by a hearing officer, he shall make his findings as to whether the evidence sustained the charges or any of them, preferred against the licensee, shall designate which charges he has found sustained by the evidence and shall, at his option, recommend to the racing and wagering board the action to be taken against the licensee. The stenographic record of the hearing shall be referred, together with the hearing officer's findings and recommendation, if any, for consideration by the racing and wagering board at a meeting duly held by it.

#### 5830.16 Rules of evidence

(a) The rules of evidence governing proceedings in the courts of the State shall not be rigidly enforced in hearings before the racing and wagering board and unless objection is made and duly noted in the stenographic record of a hearing, all evidence appearing in the stenographic record shall be deemed to have been validly introduced for the consideration of the racing and wagering board.

(b) The introduction of cumulative evidence shall be avoided and the person conducting the hearings may curtail the testimony of any witness which he judges to be merely cumulative; however, the party offering such testimony may make a short avowal of the testimony which would be given if the witness asserts that such avowal is true. This avowal shall be made a part of the stenographic record.

#### 5830.17 Stenographic record

An accurate stenographic record shall be kept of the testimony of all witnesses. A copy of any testimony given by a witness shall be made available to him or any other person having a legitimate interest in such testimony upon application to the racing and wagering board and at the expense of the applicant.

#### 5830.18 Penalties

Upon the finding of a violation of the bingo licensing law, the bingo control law, the ordinances or local laws or this Subtitle, or any of these, such as would warrant the suspension or revocation of a license or an identification number, the municipal governing body or the racing and wagering board, whichever made such finding, may declare the violator ineligible to apply for a license under said laws for a period not exceeding 12 months thereafter. Such declaration of ineligibility may be extended to include in addition to the violator any of its subsidiary organizations, its parent organization or those otherwise affiliated with the violator, when in the opinion of the governing body or the racing and wagering board the circumstances of the violation warrant such action.

#### 5830.19 Surrender of license when revoked or suspended

When a license is suspended or revoked the licensee shall surrender its license to the governing body or the racing and wagering board, whichever revoked or suspended the same, on or before the effective date of the suspension or revocation. No license shall be valid beyond the effective date of the suspension or revocation.

#### 5830.20 Subpoenas

At the request of any party to a hearing, and for good cause shown, the racing and wagering board shall issue subpoenas for the attendance of witnesses and the production of books, records, and other documents.

#### 5830.21 Suspension of identification number prior to hearing

The racing and wagering board by its chairman or by any two members thereof or a duly designated hearing officer may at any time during the course of a hearing, inquiry or investigation, suspend any identification number issued pursuant to the Executive Law, without hearing if, in its judgment, the continuance of the identification number is contrary to law, rules, regulations or inimical to the public interest. Upon suspension, the racing and wagering board shall forthwith inform the registrant in writing of the grounds thereof and the date and place set for the hearing thereon, said hearing to be held within 10 days after suspension.

### **PART 5831. APPEALS TO THE RACING AND WAGERING BOARD**

#### § 5831.1 Filing of notice of appeal

Upon the taking of an appeal as provided by the bingo licensing law from any action or determination of the municipal governing body denying, suspending or revoking a license, the party aggrieved shall file with the municipal governing body an original and copy of a notice of appeal within 30 days of the action or determination appealed from.

#### 5831.2 Contents of notice

The notice of appeal shall set forth in detail the specific ground or grounds upon which the appeal is based.

#### 5831.3 Forwarding of original notice to racing and wagering board

The municipal clerk shall forward the original of the notice to the racing and wagering board within three days after its filing.

#### 5831.4 Filing of statement of appeal

Within 15 days after the filing of the notice of appeal, the party aggrieved shall file with the racing and wagering board an original and three copies of a statement of appeal with an admission or affidavit of service upon the municipal governing body.

#### 5831.5 Contents of statement

The statement of appeal shall set forth in separately numbered paragraphs: (a) the specific nature of the claimed error or errors; (b) a narrative of the facts presented to the municipal governing body upon which the determination or action was based; (c) a narrative of any additional facts, not presented to the municipal governing body, which the party appealing requests be considered on the appeal, together with an explanation why such additional facts were not presented to the municipal governing body; (d) a true copy of all transcribed testimony taken at all prior hearings and proceedings; and (e) argument on facts and the law. There shall also be affixed a copy of the original application, a copy of the findings and determination of the municipal governing body and a copy of the license, if any.

#### 5831.6 Content and filing of counterstatement

Within 20 days after service upon it of the statement of appeal, the municipal governing body shall file with the racing and wagering board an original and three copies of a counterstatement of appeal, with an admission or affidavit of service upon the party appealing which shall set forth the facts in the statement of appeal that are disputed. There shall be an assertion as to any disputed fact, together with a narrative of any additional facts, not originally presented to the municipal governing body, which it requests be considered on the appeal. The counterstatement of appeal may also set forth argument on the facts and the law. On or before the filing thereof, a copy of the counterstatement of appeal shall be served upon the party aggrieved.

#### 5831.7 Proofs annexed to counterstatement

The counterstatement of appeal shall have annexed, in the form of affidavits and exhibits, proof in support of (a) any disputed facts, (b) any additional facts not presented to the municipal governing body.

#### 5831.8 How papers may be filed

Filing of the foregoing papers with the racing and wagering board at its office in Albany, New York, may be either by personal service or by certified mail.

#### 5831.9 Notice of hearing

Upon receipt of the counterstatement of appeal the racing and wagering board shall notify the parties thereto of the date and place fixed for hearing the appeal, and each party must indicate to the racing and wagering board and to the opposing party, by written notice, within five days: (a) whether the appeal is to be submitted on the appeal papers, or (b) whether oral argument is desired and (c) whether any party desires to examine any person making an affidavit on which another party relies, and the name or names of such person or persons.

#### 5831.10 Cross-examination of affiant

Whenever any person making an affidavit is to be cross-examined at the hearing on appeal, the party relying on his affidavit shall produce the witness at the hearing, and in default thereof, the affidavit shall not be considered in the determination of the appeal.

#### 5831.11 Additional testimony may be allowed

The racing and wagering board may, upon application of any party, for good cause shown, allow the production at the hearing of additional witnesses and evidence in support of any facts material to the determination of the appeal.

#### 5831.12 Subpoenas

At the request of any party to an appeal, and for good cause shown, the racing and wagering board shall issue subpoenas for the attendance of witnesses and the production of books, records, and other documents.

#### 5831.13 Stenographic record of proceedings

Whenever oral testimony of witnesses is taken at the hearing of an appeal, an accurate stenographic record shall be kept of the testimony of all witnesses. A copy of any testimony given by a witness shall be made available to him or any other person having a legitimate interest in such testimony upon application to the racing and wagering board and at the expense of the applicant.

#### 5831.14 Adjournment of hearing

Hearings may be adjourned by the racing and wagering board from time to time at the request of any party to the appeal but only for good cause shown. Hearings shall be held and concluded without unreasonable delay.

#### 5831.15 Conduct of hearing

The chairman may designate one or more members or employees of the board to conduct the hearing appeal.

#### 5831.16 Recording determination of appeal

Upon the determination of an appeal, the racing and wagering board shall state its findings and record the vote of the members participating therein. All parties shall be notified by the racing and wagering board of its determination and shall be furnished a copy of the findings.

#### 5831.17 Assistance of counsel

Parties to an appeal may be represented by counsel; provided, however, the attorney shall be a member in good standing of the Bar of the State of New York.

#### 5831.18 Authority of person acting in representative capacity

Any person appearing before the racing and wagering board in a representative capacity shall be required to establish his authority to act in such capacity.

5831.19 Stay without court order

Racing and wagering board shall have discretion to stay all proceedings to enforce any action, determination or order appealed from, upon written application to it by the party aggrieved and for good cause shown by affidavit of the moving party.

**SUBTITLE T. NEW YORK STATE RACING AND WAGERING BOARD**

9 NYCRR Appx. T-1 (2012)

Appendix T-1

**COPY OF APPENDIX T-1  
MAY BE OBTAINED FROM:  
NYS LEGISLATIVE BILL DRAFTING COMMISSION  
CONTACT: LEGISLATIVE RETRIEVAL SYSTEM'S HELPLINE**

Charitable Fundraising

9 NYCRR Appx. T-2 (2012)

Appendix T-2

**COPY OF APPENDIX T-2  
MAY BE OBTAINED FROM:  
NYS LEGISLATIVE BILL DRAFTING COMMISSION  
CONTACT: LEGISLATIVE RETRIEVAL SYSTEM'S HELPLINE**