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REG-35-202 LICENSE REQUIREMENTS: CLASS I AND CLASS II BINGO

202.01 Except for special event bingo as provided in Regulation 35-222, a bingo license is required whenever a charge is made to participate or any bingo prize to be awarded exceeds ~~$25.00~~ $25 in value. ~~Such~~ A bingo license ~~shall~~ must be applied for on a form prescribed by the Department. An organization seeking a bingo license may apply for either a Class I or Class II license. The class of license which an organization is granted ~~shall be~~ is determined by the following:

202.01A A licensed organization with bingo gross receipts of less than $100,000~~.00~~ for the annual reporting period July 1 through June 30 will be issued a Class I license.

202.01B A licensed organization with bingo gross receipts of $100,000~~.00~~ or more for the annual reporting period July 1 through June 30 will be issued a Class II license.

202.01C When a bingo occasion is conducted on a joint basis by two or more licensed organizations, the class of license required ~~shall be~~ is determined based upon the combined gross receipts of all licensed organizations involved in the conduct of the bingo occasion.

202.01D The base period for determining bingo gross receipts for license classification purposes ~~shall be~~ is the annual reporting period July 1 to June 30. For license renewal purposes, the Department will use the licensed organization's gross receipts from the most recently completed annual reporting period in determining the appropriate class of license to be issued. If the organization was not licensed for the entire reporting period, the Department will annualize the reported gross receipts ~~in order~~ to determine the appropriate class of license.

202.01D(1) For an organization ~~that has~~ not previously ~~been~~ licensed, the following factors will be used to determine the class of license to be issued:

202.01D(1)(a) The size of the premises to be used for the conduct of bingo;

202.01D(1)(b) The prices the organization intends to charge for admissions and bingo cards, and the prizes the organization intends to award; and

202.01D(1)(c) The number of players the organization expects to attract.

202.01E If, during the course of the licensing period, an organization conducting bingo under a Class I license determines that its gross receipts for the first annual reporting period after issuance of the license will equal or exceed $100,000~~.00~~, it shall apply for an upgrade to a Class II license. ~~Such~~ The application shall be accompanied by the difference in license fees between a Class I and Class II license and a completed Nebraska Application for Gaming Manager License, Form 50C, and the statutorily required license fee.

202.01E(1) Upon issuance of the Class II license, the organization must discontinue the use of any reusable hard bingo card or shutter card and shall adhere to all regulations and requirements for a Class II bingo licensee.

202.01E(2) Within seven days ~~of~~ after the issuance of the Class II license, the organization shall return the original Class I license issued by the Department and conduct a physical inventory of any disposable paper bingo cards on hand immediately prior to the first bingo game conducted under the Class II license. ~~Such~~ The inventory shall be reported to the Department with the licensed organization's first quarterly report immediately following the upgrade of the license.

202.01F A Class II license may be downgraded to a Class I license only if a Class II bingo licensee's gross receipts fall below $100,000~~.00~~ for the annual reporting period July 1 to June 30, and ~~such~~ the license may only be downgraded (a) for the second ~~twelve~~ 12-month period of a biennial licensing period, or (b) upon the renewal of a biennial license.

202.02 An application for a bingo license shall contain~~, at a minimum,~~ the following information:

202.02A The name and location address of the applicant organization and~~, if applicable,~~ a mailing address if different from the location address;

202.02B The county in which the applicant organization's principal office is located;

202.02C Any state or federal identification numbers held by the applicant organization;

202.02D The class of bingo license ~~for which the organization is applying~~ applied for and the statutorily required license fee;

202.02E The type of organization, the subsection of section 501(c) of the Internal Revenue Code (IRC) under which the organization is tax exempt, number of members, and affiliation, if any, with a state or national organization;

202.02F The name and complete address of the financial institution ~~at which~~ where the applicant organization will have its bingo checking account and the account number;

202.02G The names, social security numbers, dates of birth, and titles of the principal officers of the applicant organization;

202.02H The complete address, including the county, of the premises ~~at which~~ where bingo is to be conducted, and an indication of whether the premises and bingo equipment to be used are owned or rented by the applicant organization;

202.02I If applicable, the name of the lessor of the premises ~~at which~~ where bingo will be conducted and~~/or~~ the lessor of any bingo equipment and the amount of rent to be paid;

202.02J The frequency that bingo will be conducted, including the calendar days of the week and the beginning and ending times for the bingo occasions;

202.02K ~~An indication as to~~ A statement indicating whether another licensed organization will be co-sponsoring the bingo occasion and, if applicable, the name and state identification number of the co-sponsoring organization;

202.02L The name, complete address, social security number, date of birth, and years of membership of one member as defined in Regulation 35-200.15, of the applicant organization who ~~shall~~ will serve as the bingo chairperson and, at the applicant organization's option, the names, complete addresses, social security numbers, dates of birth, and years of membership of up to three members, as defined in Regulation 35-200.15, of the applicant organization who ~~shall~~ will serve as alternate bingo chairpersons; and

202.02M If the applicant organization is applying for a Class II license for the first time, the proposed price structure for the sale or use of bingo cards and bingo card monitoring devices.

202.03 In addition to the license application required by Regulation 35-202.02, each applicant organization is required to apply for and obtain a license for at least one of its members, as defined in Regulation 35-200.15, to serve as the organization's utilization of funds member (see Regulation 35-204). A Class II bingo licensee must also apply for and obtain a license for at least one individual to serve as a gaming manager (see Regulation 35-206).

202.04 It ~~shall be~~ is the responsibility of the bingo chairperson and a utilization of funds member of the licensed organization to keep the organization's license application information current. The Department must be informed within ~~thirty (~~30~~)~~ days of any changes in the information supplied by the licensed organization in its most recent filing with the Department.

202.04A The licensed organization's bingo chairperson or gaming manager must submit a ~~thirty (~~30~~)~~ day advance notification to the Department, in writing, and must receive approval from the Department prior to:

202.04A(1) Changing the location of its bingo premises; or

202.04A(2) Changing the days ~~and/~~or times it conducts bingo.

202.04B All other application changes must be reported in writing and the Department may require the filing of a new application ~~and/~~or schedule. All changes to a licensed organization's application information submitted by a bingo chairperson or gaming manager, other than changes to the days or ~~time~~ times of the bingo occasions or a change of the premises at which bingo is conducted, must be confirmed by the signature of an officer of the licensed organization or a utilization of funds member.

202.04C Any individual signing the most current application ~~shall obligate~~ obligates the licensed organization to comply with the Nebraska Bingo Act and Regulations for that licensing period.

202.05 In addition to all other information requested by the Department, each applicant for a bingo license and each subsequent renewal ~~thereof~~ may, at the discretion of the Department, be required to provide:

202.05A A copy of the applicant organization's articles of incorporation or bylaws or, if not a corporation, a copy of any bylaws or other documents which set forth the organization's structure and purpose;

202.05B Additional evidence of a parent-subordinate relationship if the applicant organization is utilizing the charter date of its parent organization to satisfy the five-year existence requirement; ~~and/~~or

202.05C A current roster of all active members.

202.06 All Class I and Class II bingo licenses ~~shall~~ expire and may be renewed on a biennial basis, according to the following schedule:

202.06A A license to conduct bingo issued to a nonprofit organization holding a certificate of exemption under section 501(c)(3) or (c)(4) of the ~~Internal Revenue Code~~ IRC and any license issued to a utilization of funds member or gaming manager for ~~such~~ the nonprofit organization ~~shall expire~~ expires on September 30 of each odd-numbered year.

202.06B A license to conduct bingo issued to a nonprofit organization holding a certificate of exemption under section 501(c)(5), (c)(7), (c)(8), (c)(10) or (c)(19) of the ~~Internal Revenue Code~~ IRC, or to any volunteer fire company or volunteer first-aid, rescue, ambulance, or emergency squad and any license issued to a utilization of funds member or gaming manager for ~~such~~ the organizations ~~shall expire~~ expires on September 30 of each even-numbered year.

202.07 Applications for license renewal ~~shall be~~ are due 45 days prior to the expiration date of the license, or as otherwise provided in regulation, unless ~~such~~ the application pertains only to a limited period bingo occasion. Licenses are not transferable. An organization, utilization of funds member, or gaming manager is not considered licensed and shall not conduct any activity for which a license is required until ~~such~~ the organization or individual has physical possession of the printed license issued by the Department.

202.08 The licensed organization shall post conspicuously, at the place where bingo is being conducted, the organization's bingo license and, if applicable, the gaming manager's license. The organization's utilization of funds member license is not required to be posted.

~~202.08A The licensed organization shall also post conspicuously the local permit or a letter of authorization to conduct bingo which is to be obtained either from the city or village clerk when bingo is conducted within the limits of any incorporated city or village, or from the county clerk when bingo is conducted outside the limits of any incorporated city or village or on a dinner or excursion train.~~

~~202.08B~~ 202.08A A licensed organization which has obtained authorization from the Department to conduct a limited period bingo occasion or a restricted limited period bingo occasion as defined in Regulation 35-213 shall post conspicuously, at the premises where bingo is conducted, the Limited Period Bingo Authorization, Form 52.

~~202.08C~~ 202.08B The licensed organization must post its current ~~license(s)~~ licenses and authorizations issued by the Department. A copy of the license or authorization ~~shall~~ may not be substituted for the original.

~~202.08C(1)~~ 202.08B(1) A licensed organization, utilization of funds member, or gaming manager whose license has been lost, stolen, or destroyed must notify the Department as soon as possible. A duplicate license will be issued for no additional fee.

202.09 Any licensed organization, utilization of funds member, or gaming manager who no longer desires to be licensed ~~or~~ and any individual who no longer desires to be designated as the licensed organization's bingo chairperson or alternate bingo chairperson, shall notify the Department in writing of ~~their intentions~~ his or her intention to cancel ~~their~~ the ~~licenses~~ licenses or designation. ~~Such~~ The notification shall be signed by:

202.09A An officer of the organization in the case of a licensed organization;

202.09B An officer of the licensed organization and the individual holding the license in the case of a utilization of funds member or gaming manager; or

202.09C An officer of the licensed organization and the individual designated as bingo chairperson or alternate bingo chairperson in the case of a bingo chairperson or alternate bingo chairperson.

202.09D All notifications of license cancellation ~~shall~~ must be accompanied by the original licenses issued by the Department.

202.10 ~~In the event that~~ If a license is suspended, canceled, or revoked, the licensee shall surrender physical possession of ~~such~~ the license~~(s)~~ to the Department immediately upon receipt of the order of suspension, cancellation, or revocation from the Department.

202.10A In the case of suspension, the Department shall return the licenses to the licensee at the end of the suspension period.

202.10B In the case of cancellation, the former licensee may reapply for a license when the period of cancellation has expired.

202.10C In the case of revocation, the former licensee may not reapply for any license at any time in the future under the Nebraska Bingo Act unless otherwise authorized by the Department.

202.10D When a licensee has successfully appealed an order of suspension, revocation, or cancellation, the Department shall return physical possession of the ~~licenses~~ license which ~~have~~ has been suspended, revoked, or canceled.

(Sections 9-202, 9-204.02, 9-205, 9-207, 9-209.01, 9-212, 9-213 9-214, 9-215, 9-216, 9-220, 9-224, 9-225, 9-225.01, 9-225.02, 9-226, 9-230, 9-232.01, 9-232.02, 9-233, ~~9-236,~~ 9-237, 9-241.10, and 9-255.05, R.R.S. 2007. ~~September 5, 2005~~_____.)

REG-35-203 LAWFUL PURPOSE

203.01 A licensed or previously licensed organization shall spend its bingo profits solely for lawful purposes.

203.01A For purposes of this regulation, bingo profits means the gross receipts collected from one or more bingo games, less reasonable sums necessarily and actually expended for prizes, taxes, license ~~and permit~~ fees, bingo equipment, the cost of renting or leasing a premises for the conduct of bingo, and other allowable expenses.

203.02 Bingo profits may be used internally by a licensed or previously licensed organization or donated outside of the organization, subject to the following:

203.02A Internal use of bingo profits. Lawful purpose uses of bingo profits internally by a licensed or previously licensed organization include:

203.02A(1) Charitable, benevolent, humane, religious, philanthropic, youth sports, educational, civic, or fraternal activities conducted by the licensed or previously licensed organization for the benefit of its members, such as:

203.02A(1)(a) Religious activities including, but not limited to, creating, operating, or maintaining a church, church school, and their programs and facilities;

203.02A(1)(b) Educational activities including, but not limited to, paying the operating expenses of a school or establishing or continuing scholarship funds;

203.02A(1)(c) Charitable or humane activities including, but not limited to, purchasing food for the needy or to help provide medical care for individuals in need;

203.02A(1)(d) Youth sports activities including, but not limited to, the support or maintenance of team or individual activities which consist of an element of enjoyment or recreation, involving the practice of individual skill, and in which all of the participants are under 19 years of age. Such donations may include the construction, acquisition, improvement, or maintenance of facilities used in conjunction with youth sports activities; and

203.02A(1)(e) Civic or fraternal activities including, but not limited to, those activities which confer a benefit on the membership as a whole, such as paying the reasonable and necessary expenses for officers to travel to regional or national conventions ~~at which~~ where organization business is discussed; funding ceremonies commemorating religious or patriotic holidays; paying for the construction, acquisition, improvement, or maintenance of the licensed or previously licensed organization's facilities; or paying the general operating expenses of the licensed or previously licensed organization such as non-bingo related payroll expenses, taxes, insurance, or utilities.

203.02A(2) A licensed or previously licensed organization ~~shall~~ may not use bingo profits for purely social or recreational purposes such as stocking a bar with alcoholic beverages, defraying the cost of a dinner or dance, or paying the expenses for a New Year's Eve party.

203.02B Outside donations of bingo profits. Donating bingo profits outside of the licensed or previously licensed organization is considered a lawful purpose usage of the bingo profits provided the donation is made to an eligible recipient. Only the following entities are eligible to receive an outside donation:

203.02B(1) The State of Nebraska or any political subdivision ~~thereof,~~ of the state, if the funds are used exclusively for public purposes such as the funding of parks or the creation or maintenance of public facilities or projects;

203.02B(2) A corporation, trust, community chest, fund, or foundation:

203.02B(2)(a) Created or organized under the laws of Nebraska, which has been in existence for five consecutive years immediately preceding the date of the donation, and which has its principal office located in Nebraska. A licensed or previously licensed organization shall not donate its bingo profits to foreign corporations, trusts, community chests, funds, or foundations, but may donate to a local chapter of such organizations provided that ~~such~~ the local chapter has been created or organized under the laws of Nebraska, has been in existence for five years, and has its principal office located in this state;

203.02B(2)(b) Organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, for the prevention of cruelty to children or animals, or to foster national or international amateur sports competition;

203.02B(2)(c) ~~No~~ Organized and operated so that no part of the net earnings ~~of which inures to the benefit of~~ benefit any private shareholder or individual;

203.02B(2)(d) Which is not disqualified for tax exemption under section 501(c)(3) of the ~~Internal Revenue Code~~ IRC by reason of attempting to influence legislation; and

203.02B(2)(e) Which does not participate in any political campaign on behalf of any candidate for political office.

203.02B(3) A post or organization of war veterans or an auxiliary unit or society of, trust for, or foundation for any such post or organization:

203.02B(3)(a) Organized in the United States or in any territory or possession ~~thereof~~ of the United States; and

203.02B(3)(b) Organized and operated so that no ~~No~~ part of the net earnings ~~of which inures to the benefit of~~ benefit any private shareholder or individual; or

203.02B(4) A volunteer fire department or volunteer first-aid, rescue, or emergency squad or volunteer fire company serving any city, village, county, township, or rural or suburban fire protection district.

203.03 No part of the bingo profits ~~shall~~ may:

203.03A ~~Inure to the benefit of~~ Benefit any individual member or shareholder of the licensed or previously licensed organization making the donation, except to the extent it is in furtherance of the purposes described in this regulation. A licensed or previously licensed organization may make a direct donation to an individual member of its organization if that organization's activities include (a) making charitable donations to fire, catastrophic illness, or disaster victims, and the individual member is a victim thereof, or (b) making charitable donations to other charitable, benevolent, humane, religious, philanthropic, youth sports, educational, civic, or fraternal activity and the individual member is a beneficiary thereof or a participant in the activity; or

203.03B Be used for any activity which attempts to influence any legislation, regulation, or ordinance, or participating in or contributing to any political campaign on behalf of any elected official or individual who is or has been a candidate for public office.

203.04 In the case of scholarship funds, the licensed or previously licensed organization may either donate to its own internal scholarship fund, ~~or to~~ an outside scholarship fund, or an educational institution meeting the guidelines for recipients of outside donations under these regulations.

203.04A A donation to a scholarship fund that does benefit an individual member of the licensed or previously licensed organization or a dependent or immediate family member of ~~such~~ the individual member, may qualify as a lawful purpose and may be made either through the organization's own scholarship fund or through a donation directly to the educational institution or scholarship fund meeting the requirements of this regulation.

203.05 Upon dissolution of a licensed organization or upon suspension, cancellation, revocation, or expiration of an organization's license, all remaining profits derived from the conduct of bingo ~~shall~~ must be utilized for a lawful purpose and ~~shall~~ may not be distributed to any private individual or shareholder. The disbursement of ~~such~~ the remaining profits ~~shall be~~ is subject to the reporting and disbursement requirements contained in Regulation 35-217.01A(1).

203.06 A licensed or previously licensed organization may commingle its revenue from the conduct of bingo with its other operating accounts only after initially depositing the bingo receipts into its bingo checking account. Bingo revenues transferred to other accounts of the licensed or previously licensed organization must be done by writing a check from the bingo checking account or by electronic funds transfer from the bingo checking account. Bingo revenues transferred to other accounts must still be used for lawful purposes.

203.06A It ~~shall be~~ is the duty of the licensed utilization of funds member to keep and maintain records sufficient to prove that bingo revenues transferred from the bingo checking account have been used for lawful purposes.

203.07 All lawful purpose donations must be made by a check written from the licensed or previously licensed organization's bingo checking account, directly to the donee for the ultimate use of the donation. For example, a lawful purpose donation to an eligible recipient must go

directly to the recipient for use in a manner complying with section 9-211 of the Nebraska Bingo Act and this regulation.

203.07A All checks must be signed by a licensed utilization of funds member of the licensed organization. ~~If an~~ An electronic funds transfer ~~is utilized in lieu of a check, such transfer~~ must be authorized by a licensed utilization of funds member of the licensed organization.

203.08 No licensed or previously licensed organization, or any representative ~~thereof~~, ~~shall~~ may donate or promise to donate any portion of its bingo profits to a recipient outside of the organization in exchange for a payment, gift, or other thing of value from the recipient to any individual, organization, or corporation, including, but not limited to, the licensed or previously licensed organization or any of its members, employees, or agents. Unlawful outside donations include, but are not limited to:

203.08A A licensed or previously licensed organization donating all or a portion of its bingo profits to a second organization in return for a donation or a transfer of all or a portion of the donation from the second organization to the original organization or any representative ~~thereof~~.

(Sections 9-202, 9-211, 9-217, 9-226, 9-255.03, and 9-255.05, R.R.S. 2007, and section 9-255.04, R.S. Supp., 2009 ~~March 10, 2002~~_____.)

REG-35-205 BINGO CHAIRPERSON AND ALTERNATE BINGO CHAIRPERSON; RESPONSIBILITIES AND DUTIES

205.01 Each licensed organization must designate one bona fide and active member of the organization to be its bingo chairperson. The licensed organization may also designate up to three additional members, as defined in Regulation 35-200.15, to serve as alternate bingo chairpersons.

205.01A A bingo chairperson or alternate bingo chairperson may also be licensed as the organization's utilization of funds member; however, a bingo chairperson or alternate bingo chairperson may not be licensed as a gaming manager for any licensed organization.

205.01B A Class I bingo licensee must have at least one bingo chairperson or alternate bingo chairperson present for the duration of each bingo occasion, including limited period bingo occasions, which the licensed organization conducts.

205.01C The presence of a bingo chairperson or alternate bingo chairperson at a Class II bingo occasion is optional. A Class II bingo licensee is required to have a gaming manager present for the duration of each bingo occasion. A Class II bingo licensee's bingo chairperson or alternate bingo chairperson may substitute for its gaming manager only in an emergency situation.

205.01D In the case of a co-sponsored bingo occasion, each co-sponsoring licensed organization must have at least one bingo chairperson, alternate bingo chairperson, or gaming manager present for the duration of each bingo occasion.

205.02 The bingo chairperson or, in his or her absence, the alternate bingo chairperson, ~~shall have~~ has the following responsibilities and duties:

205.02A Acting as the Department's primary contact for the licensed ~~organization~~ organization's ~~relative to its~~ bingo activities;

205.02B ~~In~~Ensuring, in cooperation with the licensed organization's utilization of funds member, ~~ensuring~~ that the organization's bingo license application information filed with the Department is kept current;

205.02C ~~In~~ Requesting, in cooperation with the licensed organization's gaming manager (when applicable), ~~requesting~~ Departmental approval for changes to the days, times, or premises where the licensed organization conducts bingo, notifying the Department as required in Regulation 35-209.05 of any changes or additions to the licensed organization's bingo card pricing structure, and requesting approval for the rescheduling of a bingo occasion which was canceled due to an act of God;

205.02D Supervising and directing individuals working at the licensed organization's bingo occasions;

205.02E Ensuring that no one under 18 years of age participates in bingo or a lottery by the sale of pickle cards conducted at the bingo occasion and ~~that~~, except in the case of a limited period bingo occasion, ensuring that no alcoholic beverages are served in the area of the premises in which bingo is conducted;

205.02E(1) ~~In~~ Ensuring, in the case of a restricted limited period bingo occasion where individuals under 18 years of age are permitted to play bingo, ~~ensuring~~ that such individuals do not sell, purchase, or play pickle cards, and that no alcoholic beverages are served;

205.02F Ensuring that all gaming activities conducted at the licensed organization's bingo occasion are conducted in accordance with the Nebraska Bingo Act, Nebraska Pickle Card Lottery Act, Nebraska Lottery and Raffle Act, or Nebraska Small Lottery and Raffle Act, and any rules and regulations promulgated pursuant to those Acts;

205.02G Resolving any gaming related disputes which may occur at the bingo occasion;

205.02H Ensuring that the licensed organization awards at least 50 percent of its bingo gross receipts in prizes on a quarterly basis;

205.02I Ensuring that no prize awarded exceeds $1,000~~.00~~ in value for any single regular or limited period bingo game or $25~~.00~~ in value for any single restricted limited period bingo game;

205.02J Ensuring that the total value of prizes awarded for bingo at the occasion does not exceed $4,000~~.00~~;

205.02K Ensuring that the total fair market value of promotional prizes awarded does not exceed $100~~.00~~ for a regular bingo occasion or $250~~.00~~ for a limited period bingo occasion;

205.02L Ensuring that complete and accurate records of all gaming activities conducted at the bingo occasion are kept, including the date of each bingo occasion, whether it is a regular, limited period, or restricted limited period bingo occasion, the gross receipts, the bingo prizes paid, the fair market value of promotional prizes awarded, the number of players at each occasion, and, if the licensed organization will be using pickle card proceeds to pay bingo related expenses, the gross pickle card sales at each bingo occasion;

205.02M Ensuring that prizes awarded in cash of $500~~.00~~ or more are properly receipted;

205.02N Ensuring that all revenues received from the conduct of gaming activities at the bingo occasion are turned over to the licensed organization's utilization of funds member or deposited directly into the appropriate bank account of the licensed organization;

205.02O Ensuring that the licensed organization conspicuously posts, at each bingo occasion, its bingo license, ~~local bingo permit,~~ the percentage of its bingo gross receipts paid out in prizes for the last preceding quarter, and, when applicable, its gaming ~~manager(s)~~ manager's license and limited period bingo authorizations; and

205.02P ~~If the licensed organization is also licensed to conduct a lottery by the sale of pickle cards, ordering~~ Ordering pickle card units from a licensed distributor on behalf of

the licensed organization to be sold at its bingo occasions if the licensed organization is also licensed to conduct a lottery by the sale of pickle cards.

205.03 If a Class II bingo licensee requires both the presence of a gaming manager and a bingo chairperson, the gaming manager ~~shall be~~ is the ultimate authority on gaming related issues at the bingo occasion; however, the bingo chairperson may assist the gaming manager and act as the licensed organization's representative at the bingo game when the gaming manager is not a member of the licensed organization.

205.04 An individual designated as a bingo chairperson or alternate bingo chairperson ~~shall~~ may not have a substantial interest, as defined in Regulation 35-200.20, in any individual or business licensed as a manufacturer, distributor, or commercial lessor.

(Sections 9-202, 9-204.02, 9-207.01, 9-209, 9-209.01, 9-214.01, 9-225.01, 9-226, 9-232.01, 9-232.02, 9-232.03, ~~9-236,~~ 9-241.06, 9-241.08, 9-241.09, 9-241.10, 9-255.02, 9-255.03, 9-255.06, 9-255.07, 9-255.09, 9-331, and 9-342, R.R.S. 2007.~~March 10, 2002~~_____.)

REG-35-206 GAMING MANAGER; LICENSING REQUIREMENTS AND DUTIES

206.01 A Class II bingo licensee must license at least one individual to serve as its gaming manager. ~~Such~~ This individual is not required to be a member of the licensed organization. The licensed gaming manager shall be the individual responsible for the conduct of all gaming activities at each bingo occasion of the licensed organization.

206.01A An individual may be licensed as a gaming manager for more than one licensed organization, but must obtain a separate gaming manager's license for each organization. A separate license application and license fee is required for the individual, from each organization for which he or she is seeking a gaming manager's license.

206.01B A gaming manager cannot be designated as a bingo chairperson or alternate bingo chairperson for any licensed organization, or hold any other type of license issued pursuant to the Nebraska Bingo Act, the Nebraska Pickle Card Lottery Act, or the Nebraska Lottery and Raffle Act.

206.02 An individual is not considered to be licensed as a gaming manager and ~~shall~~ may not conduct any activity for which ~~such~~ a license is required until he or she has physical possession of the gaming manager's license issued by the Department. An individual seeking a gaming manager's license ~~shall~~ must apply for ~~such~~ a license on a form supplied by the Department. ~~Such~~ The application ~~shall~~ must contain~~, at a minimum,~~ the following information:

206.02A The name and state identification number of the licensed organization;

206.02B The name, address, social security number, date of birth, and signature of the individual applying for the gaming manager's license;

206.02C A statement signed by the licensed organization's utilization of funds member ~~indicating~~ stating its approval of the gaming manager to operate and manage the bingo game on behalf of the organization; and

206.02D The statutorily required license fee. ~~Such~~ The fee may be paid by the licensed organization.

206.03 The information contained in the application shall be kept current. The gaming manager ~~shall~~ must notify the Department within ~~thirty (~~30~~)~~ days of any changes to the application information. Changes must be reported in writing and the Department may require the filing of a new application.

206.03A The gaming manager's license ~~shall~~ must be conspicuously posted with the organization's bingo license at the premises where bingo is conducted.

206.04 A gaming manager's license ~~shall expire~~ expires as provided in Regulation 35-202.06 and may be renewed biennially. A gaming manager's license is not transferrable.

206.05 An individual applying for a license as a gaming manager ~~is required to~~ must be fingerprinted for criminal background investigation purposes. Two sets of fingerprints on cards

supplied by the Department must be submitted to the Nebraska State Patrol, Criminal Investigation Division, along with the required fees.

206.05A If an individual applying for a gaming manager's license has been issued a license by the Nebraska Liquor Control Commission, the Department may, at its discretion, waive the fingerprinting requirement.

206.05B An individual renewing his or her gaming manager's license shall not be required to submit additional fingerprint cards or pay additional fingerprinting fees unless specifically requested to do so by the Department.

206.06 A Class II bingo licensee must have at least one of its gaming managers present for the duration of each bingo occasion or limited period bingo occasion which the licensed organization conducts, except that the organization's bingo chairperson or alternate bingo chairperson may substitute for the gaming manager in an emergency situation.

206.07 The gaming manager ~~shall be~~ is the ultimate authority on gaming related issues on the premises of the bingo occasion. If the licensed organization requires both the presence of a gaming manager and a bingo chairperson, the bingo chairperson or, in his or her absence, the alternate bingo chairperson, may assist the gaming manager and act as the organization's representative at the bingo occasion when the gaming manager is not a member of the organization. The gaming manager ~~shall have~~ has the following responsibilities and duties:

206.07A ~~To supervise~~ Supervising and ~~direct~~ directing all bingo workers ~~as well as~~ and other individuals assisting in the conduct of gaming activities at the bingo occasion;

206.07B Ensuring that no one under 18 years of age participates in bingo or a lottery by the sale of pickle cards and ~~that~~, except in the case of a limited period bingo occasion, that no alcoholic beverages are served in the area of the premises in which bingo is conducted;

206.07B(1) ~~In~~ Ensuring, in the case of a restricted limited period bingo occasion~~,~~ where individuals under 18 years of age are permitted to play bingo, ~~ensuring~~ that such individuals do not sell, purchase, or play pickle cards, and that no alcoholic beverages are served;

206.07C Resolving any gaming related disputes which may occur during the bingo occasion;

206.07D Ensuring that the licensed organization awards at least 50 percent of its bingo gross receipts in prizes on a quarterly basis;

206.07E Ensuring that no prize awarded exceeds $1,000~~.00~~ in value for any single regular or limited period bingo game, or $25~~.00~~ in value for any single restricted limited period bingo game;

206.07F Ensuring that the total value of prizes awarded for bingo at the occasion does not exceed $4,000~~.00~~;

206.07G Ensuring that the total fair market value of promotional prizes awarded does not exceed $100~~.00~~ for a regular bingo occasion or $250~~.00~~ for a limited period bingo occasion;

206.07H Ensuring that prizes awarded in cash of $500~~.00~~ or more are properly receipted;

206.07I Ensuring that all bingo card sales are properly receipted;

206.07J Ensuring that all revenues received from the conduct of gaming activities at the bingo occasion are turned over to the licensed organization's utilization of funds member or deposited directly into the appropriate bank account of the organization;

206.07K Ensuring that complete and accurate records of all gaming activities conducted at the bingo occasion are kept, including the date of each bingo occasion, whether it is a regular, limited period, or restricted limited period bingo occasion, the gross receipts, the bingo prizes paid, the value of promotional prizes awarded, the number of players at each occasion, and, if the licensed organization will be using pickle card proceeds to pay bingo related expenses, the gross proceeds from the sale of pickle cards at each bingo occasion;

206.07L Ensuring that all gaming activities at the bingo occasion are conducted in accordance with the Nebraska Bingo Act, Nebraska Pickle Card Lottery Act, Nebraska Lottery and Raffle Act, and Nebraska Small Lottery and Raffle Act, and any rules and regulations promulgated pursuant to those Acts;

206.07M ~~In~~ Requesting, in cooperation with the licensed organization's bingo chairperson, ~~requesting~~ ~~Departmental~~ Department approval for changes to the days, times, or premises where the organization conducts bingo, notifying the Department as required in Regulation 35-209.05 of any changes or additions to the organization's bingo card pricing structure, and requesting approval for the rescheduling of a bingo occasion which was canceled due to an act of God;

206.07N Ensuring that the licensed organization conspicuously posts, at each bingo occasion, its bingo license, ~~its local bingo permit,~~ the percentage of its bingo gross receipts paid out in prizes for the last preceding quarter, and, when applicable, its gaming manager license(s) and limited period bingo authorization(s); and

206.07O ~~If~~ Ordering, if the licensed organization is also licensed to conduct a lottery by the sale of pickle cards, ~~ordering~~ pickle card units from a licensed distributor on behalf of the organization to be sold at its bingo occasions.

206.08 An individual licensed as a gaming manager ~~shall~~ may not have a substantial interest, as defined in Regulation 35-200.20, in any individual or business licensed as a distributor, commercial lessor, or manufacturer.

(Sections 9-202, 9-204.02, 9-207.01, 9-209, 9-209.01, 214.01, 9-215, 9-226, 9-232.01, 9-232.02, 9-233, 9-241.06, 9-241.08, 9-241.09, 9-241.10, 9-255.02, 9-255.03, 9-255.04, 9-255.05, 9-255.06, 9-255.07, 9-255.09, 9-331, and 9-342, R.R.S. 2007. ~~Section 9-1,104, R.S. Supp., 2002.~~ ~~November 12, 2002~~_____.)

REG-35-214 BINGO EXPENSES

214.01 A licensed organization may spend no more than 14 percent of its bingo gross receipts for reasonable and necessary expenses relating to the conduct of bingo. The following bingo expenses ~~shall be~~ are exempt from the 14 percent expense limitation:

214.01A Bingo license ~~and permit~~ fees paid to the Department~~ or to the local city or county clerk~~;

214.01B Bingo taxes paid to the Department;

214.01C Bingo prizes and promotional prizes awarded at the bingo occasions;

214.01D The cost of purchasing, renting, or leasing bingo equipment including the purchase of disposable paper bingo cards; and

214.01E The cost of the rental or lease of a premises for the conduct of bingo and the purchase, rental, or lease of personal property necessary for the conduct of bingo such as tables, chairs, video monitors, public address systems, etc.

214.01F All other expenses are subject to the 14 percent expense limitation.

214.02 ~~The purchase of bingo~~ Bingo supplies such as daubers, chips, tape, and glue sticks ~~shall~~ must be ~~paid for~~ purchased by a check written on the licensed organization's bingo checking account~~.~~. ~~and the~~ The organization's cost of ~~such~~ these items ~~shall be~~ are subject to the following restrictions:

214.02A If a licensed organization awards a bingo supply as a prize for a bingo game, the organization's cost of the bingo supplies ~~would~~ are not ~~be~~ subject to the 14 percent expense limitation;

214.02B If a licensed organization awards bingo supplies as promotional game prizes, the organization's cost of the supplies is considered an advertising/promotional game expense that is subject to the expense limitation. For purposes of complying with the promotional game prize limitations contained in Regulation 35-212, the supplies ~~shall~~ must be valued at their fair market value;

214.02C If a licensed organization provides bingo supplies at no charge to players, the organization's cost of the supplies is an advertising/promotional expense that is subject to the expense limitation;

214.02D If a licensed organization resells the bingo supplies at a price less than its cost, the difference between the organization's cost and the proceeds received through the resale of such items is considered an advertising/promotional expense that is subject to the expense limitation;

214.02E If a licensed organization resells the bingo supplies and recovers its cost or makes a profit from ~~such~~ the sales, the organization's cost of the supplies is not subject to the expense limitation.

214.02F All revenues received by a licensed organization from the sale of bingo supplies ~~shall~~ must be deposited in the organization's bingo checking account; however, ~~such~~ the revenues shall not be considered part of the organization's bingo gross receipts for purposes of determining the bingo tax due.

214.03 For purposes of determining a licensed organization's compliance with the statutory limitation on expenses, the 14 percent limitation ~~shall be determined by utilizing~~ is calculated using the organization's bingo gross receipts on an annual basis, based upon the time period which coincides with the annual reporting requirements contained in Regulation 35-217.

214.04 A licensed organization which is also licensed to sell pickle cards at its bingo occasions may transfer a portion of its pickle card proceeds to its bingo checking account to pay bingo expenses. The portion of the pickle card proceeds which ~~can~~ may be transferred to pay bingo expenses ~~shall be determined by~~ is calculated using the bingo gross receipts and pickle card gross proceeds from the annual reporting period as prescribed in Regulation 35-217, ~~and shall be~~ based upon the percent that the gross proceeds from the sale of pickle cards at the bingo occasions represents to the total of bingo gross receipts and pickle card gross proceeds at the bingo occasions for the same period. For example:

If annual bingo gross receipts are:	$ 500,000; and
annual pickle card gross proceeds at bingo are:	$ 750,000;
Then total annual bingo/pickle activity is:	$1,250,000.

In this example, the annual pickle card gross proceeds at bingo represent 60 percent of the total of the bingo and pickle card activity at the bingo occasions ($750,000 divided by $1,250,000 equals 60 percent). Therefore, up to 60 percent of the bingo expenses, excluding prizes and taxes, ~~could~~ may be transferred from the licensed organization's pickle card checking account to its bingo checking account to pay bingo expenses. If the annual bingo expenses were $120,000, 60 percent of $120,000 would be $72,000~~,~~. ~~thus~~ Thus the licensed organization ~~could~~ may transfer up to $72,000 from its pickle card checking account to its bingo checking account to pay the bingo expenses.

214.05 A licensed organization that ~~wishes to utilize~~ uses pickle card proceeds to pay bingo expenses is required to maintain records of pickle card sales at its bingo occasions as provided in Regulation 35-216, and to report such sales as provided in Regulation 35-217.

214.06 Any amount which a licensed organization transfers from the pickle card checking account to the bingo checking account which is not ~~utilized~~ used for the payment of bingo expenses must be used by the organization for a lawful purpose.

214.07 Related organizations, as defined in Regulation 35-201.03A, which are co-sponsoring a bingo occasion where only one of the organizations is licensed to sell pickle cards at the bingo occasions, may also allocate bingo expenses as provided in Regulation 35-214.04.

214.08 All bingo expenses ~~shall~~ must be paid by checks written on the licensed organization's bingo checking account. ~~Such~~ The checks must be made payable directly to the parties with whom the expenses were incurred. No bingo expenses ~~shall~~ may be paid directly from the licensed organization's pickle card checking account. Any proceeds from the sale of pickle cards at the bingo occasions which are ~~utilized~~ used to pay bingo expenses must be transferred to the bingo checking account in order to pay the bingo expenses.

(Sections 9-202, 9-210, 9-226, 9-241.10, 9-255.02, 9-255.03, 9-255.05, 9-302, 9-308, 9-312, and 9-347, R.R.S. 2007, and section 9-255.04, R.S. Supp., 2009. ~~November 12, 2002~~_____.)

REG-35-217 ORGANIZATION REPORTING REQUIREMENTS

217.01 Each Class I and Class II bingo licensee must file an annual report of its bingo activities on forms supplied by the Department. In addition, each Class II bingo licensee must file a quarterly report of its bingo activities on forms supplied by the Department.

217.01A The annual report ~~shall cover~~ covers the licensed organization's bingo activities from July 1 to June 30 and ~~shall~~ must be filed with the Department by August 15 of each year.

217.01A(1) An annual report must be filed with the Department by August 15 of each year even if the licensed organization does not intend to renew its bingo license or does not intend to retain its bingo license for the second year of the biennial licensing period, its license renewal application has been denied, or its license has been canceled, suspended, or revoked during the reporting period. In addition, a licensed organization which has had its license renewal application denied, or its license canceled, suspended, or revoked, ~~shall~~ is also ~~be~~ required to:

217.01A(1)(a) Submit a written disbursement plan with the Department no later than 45 days after the expiration date of its bingo license or the effective date of the license renewal application denial or license cancellation, suspension, or revocation. ~~Such~~ The plan ~~shall~~ must identify the specific purpose~~(s)~~ for which the remaining profits will be utilized, ~~and shall be~~ subject to approval by the Department; and

217.01A(1)(b) ~~Unless otherwise determined by the Department, continue~~ Continue to file a bingo revenues status report by August 15 of each year, on a form supplied by the Department, listing all disbursements of bingo revenue until all such revenues have been expended either for allowable expenses or for lawful purposes unless otherwise directed by the Department.

217.01A(2) An annual report must be filed with the Department even if the licensed organization conducted bingo for only a portion of the reporting period. For example, if the licensed organization did not begin conducting bingo until the second quarter of the reporting period, or ceased its bingo activities before the end of the reporting period, an annual report ~~would~~ is still ~~be~~ required.

217.01A(3) An organization's license ~~shall~~ will not be renewed unless and until complete and accurate annual reports, for all applicable reporting periods, are filed with the Department.

217.01B The quarterly reports ~~shall be~~ are due ~~thirty (~~30~~)~~ days after the end of the first, third, and fourth calendar quarters of each year. An annual report shall be filed in place of a quarterly report for the second calendar quarter.

217.01B(1) A quarterly report must be filed with the Department even if the licensed organization conducted bingo for only a portion of the quarterly reporting period. For example, if the licensed organization did not begin conducting bingo until the second month of the reporting period, or it ceased its bingo activities before the end of the quarter, a quarterly report ~~would~~ is still ~~be~~ required.

217.02 The licensed organization's utilization of funds member ~~shall~~ must ensure that a copy of the organization's annual report is submitted to the organization's membership by August 15 of each year. In addition, the utilization of funds member shall make a copy of the annual report available to any member of the licensed organization, upon request.

217.03 The annual and quarterly reports ~~shall~~ must include the following information:

217.03A The bingo gross receipts, ~~which include~~ including revenues received by the licensed organization for the sale or use of bingo cards, fees charged for admission to bingo occasions, fees charged for the use of bingo card monitoring devices, and the value of any in-kind payments;

217.03B Amounts received from the sale of bingo supplies to bingo players;

217.03C The bingo prizes paid by the licensed organization in cash and by check;

217.03D The licensed organization's cost of merchandise awarded as a bingo or promotional prize;

217.03E A breakdown of all expenses incurred by the licensed organization in connection with its bingo activities. This ~~shall include~~ includes items such as compensation paid to bingo workers or any other individuals for work performed in connection with the licensed organization's bingo activities~~;~~, payroll taxes~~;~~, the cost of legal, bookkeeping, janitorial and security services in connection with the licensed organization's bingo activities~~;~~, amounts paid for the rental or lease of a premises to conduct bingo including furniture or fixtures, maintenance, repairs, and janitorial expenses included in the rental or lease agreement~~;~~, amounts paid for the purchase, rental, or lease of bingo equipment and bingo supplies; amounts paid for utilities at the premises where bingo is conducted; bingo license fees~~;~~, state ~~and local~~ bingo taxes~~;~~ and advertising expenses, including the licensed organization's cost of promotional game prizes;

217.03F All other expenses incurred or income derived by the licensed organization in connection with its bingo activities, whether paid from or deposited in the licensed organization's bingo checking account or another bank account of the organization including, but not limited to, such things as overages or shortages of bingo receipts, interest earned on the bingo bank accounts, and repairs and maintenance costs not covered in a current rental or lease agreement;

217.03G The licensed organization's net profit or loss from the conduct of bingo;

217.03H A detailed summary of the licensed organization's lawful purpose use of the bingo profits ~~to include~~ including:

217.03H(1) A detailed itemization of expenditures made from the bingo checking account for internal uses of bingo profits by the licensed organization. The

itemization ~~shall~~ must include the date, amount, check number, and description of the purpose for the internal expenditure;

217.03H(2) Transfers of funds made from the licensed organization's bingo checking account to the general fund of the organization and a detailed itemization of how such funds were expended for a lawful purpose;

217.03H(3) Transfers of funds made from the bingo checking account to any special funds or trust funds which are not certificates of deposit or organization savings accounts and a detailed itemization of how ~~such~~ the funds were expended for a lawful purpose; and

217.03H(4) A detailed itemization of expenditures of external donations. The itemization shall include the name and address of the party to whom the external donation was made, the date, amount, and check number of the donation, and a description of the intended use for the donation;

217.03I A summary of the licensed organization's bingo checking account activity and of any other bingo related bank ~~account(s)~~ accounts, savings accounts, or certificates of deposit ~~to include~~ including:

217.03I(1) The name and complete address of the financial institution ~~at which~~ where the account is maintained and the account number and balance of the account at the beginning of the reporting period; total deposits made during the reporting period; total interest earned during the reporting period; total disbursements made during the reporting period; and the balance of the accounts at the end of the reporting period;

217.03I(2) Bingo cash and checks on hand for the beginning and ending dates of the reporting period;

217.03I(3) Deposits or transfers to the bingo checking account which are not bingo receipts, such as transfers or deposits made from the licensed organization's pickle card checking account to the bingo checking account; and

217.03I(4) Any other disbursements from the bingo checking account which are not listed as bingo prizes, bingo expenses, or lawful purpose donations;

217.03J ~~Relative to~~ Regarding Class II bingo licensees only, a summary of the disposable paper bingo card inventory ~~to include~~ including:

217.03J(1) A description of each disposable paper bingo card packet (e.g., 6 ON 13 UP, 18 ON 13 UP) including the color; and

217.03J(2) The beginning and ending inventory for the reporting period; the quantity purchased by the licensed organization; and the quantity sold and the selling price of each type of card or packet; and

217.03K If the licensed organization is using bingo card monitoring devices to conduct bingo, the type of device, the number of electronic facsimiles of bingo cards or packets downloaded into ~~such~~ the devices, the number of disposable paper bingo cards or packets sold to be monitored by ~~such~~ the devices, the licensed organization's selling price for the electronic facsimiles of bingo cards or packets and~~/or~~ disposable paper bingo cards or

packets to be monitored by ~~such~~ the devices, the total gross receipts from the sale of electronic facsimiles of bingo cards or packets and~~/or~~ disposable paper bingo cards or packets to be monitored by ~~such~~ the devices and, if players are charged a separate fee for the use of a bingo card monitoring device, the number of devices used during the reporting period, the fee (if any) charged per device, and the total gross receipts ~~there~~ from the games monitored by the devices.

217.04 The annual and quarterly reports ~~shall~~ must be signed by an officer, ~~and~~ the utilization of funds member of the licensed organization, and the preparer of the report signifying that, under penalty of law, they have reviewed the report and, to the best of their knowledge and belief, found it to be a complete, true, and accurate accounting of the organization's bingo activities.

217.05 Each Class I and Class II bingo licensee ~~is~~ must also ~~required to~~ file a quarterly tax return and summary of its bingo activities on forms supplied by the Department. The tax return and summary ~~shall~~ must be accompanied by the remittance of the state bingo tax as provided in Regulation 35-215. The quarterly tax return and accompanying bingo activity summary ~~shall~~ must contain the following information for each bingo occasion conducted during the reporting period:

217.05A The date of the bingo occasion and the number of players in attendance;

217.05B The type of occasion (i.e., regular or limited period);

217.05C The bingo gross receipts ~~to include~~ including revenues received by the licensed organization for the sale or use of bingo cards, fees charged for admission to bingo occasions, fees charged for the use of bingo card monitoring devices, and the value of any in-kind payments;

217.05D The total value of the bingo prizes awarded including prizes paid in cash or by check and merchandise prizes. Merchandise awarded as a bingo prize must be listed at its fair market value;

217.05E The total value of promotional game prizes awarded in cash or by check and merchandise prizes. Merchandise awarded as a promotional prize must be listed at its fair market value; and

217.05F If the licensed organization ~~will be using~~ uses pickle card proceeds to pay a portion of the operating expenses of conducting bingo, the gross proceeds from the sale of pickle cards at the bingo occasion.

217.06 The quarterly tax return ~~shall~~ must be signed by an officer, ~~or~~ the utilization of funds member of the licensed organization, and the preparer of the tax return signifying that, under penalty of law, they have reviewed the return and accompanying summary and, to the best of their knowledge and belief, found them to be a complete, true, and accurate accounting of the organization's bingo activity.

(Sections 9-202, 9-204, 9-204.01, 9-204.04, 9-211, 9-217, 9-225.01, 9-226, 9-232.02, 9-233, 9-239, 9-240, 9-255.03, 9-255.05, and 9-347, R.R.S. 2007 and section 9-255.04 R.S. Supp., 2009. ~~September 5, 2005~~_____.)

REG-35-300 SCOPE AND DEFINITIONS

300.01 Bingo, Lottery, Raffle, and Lottery by Pickle Card Regulations 35-300 through 35-318 are adopted to carry out the provisions of the Nebraska Pickle Card Lottery Act. The following definitions apply as used throughout section 35-300 through 318.

300.02 Definite profit means the gross proceeds or total possible receipts of a pickle card unit less all of the possible prizes from that pickle card unit. For example:

Gross proceeds (3,600 ~~$1.00~~ pickle cards at $1)	$3,600~~.00~~
Less prizes	(2,600)
Definite profit	$1,000~~.00~~

300.03 Department means the Nebraska Department of Revenue.

300.04 Dispensing device means any machine or device into which a person inserts money, a token, or something of value in exchange for one or more pickle cards. The definition of dispensing device ~~shall~~ does not include any machine or device that awards or dispenses any other type of prize including, but not limited to, free plays or any other item of value.

300.05 Flare card means a card, board, poster, flyer, or paper prepared by the manufacturer of a pickle card unit which is enclosed with each unit. The flare card ~~shall~~ must identify the serial number for the unit~~;~~, the state identification stamp~~;~~, the numbers, letters, symbols, or configurations which, when revealed by opening the tabs on a pickle card, represent the winning ~~combination(s);~~ combinations, the number of cards in the pickle card unit which contain the winning combinations and their values~~;~~, the form number of the game, and the name, logo, symbol, design, or trademark of the manufacturer of the pickle card unit.

300.06 Gross profit means the definite profit from a pickle card unit less any commission paid to a pickle card operator for the sale of the unit. For example:

Gross proceeds (3,600 ~~$1.00~~ pickle cards at $1)	$3,600~~.00~~
Less prizes	(2,600)
Definite profit	$1,000~~.00~~
Less pickle card operator's	
commission (30%)	(300)
Gross profit	$ 700~~.00~~

300.07 Member means an individual who meets the written membership requirements contained in the organization's articles of incorporation, bylaws, charter, statement of purpose, or other written rules or statement governing membership of the organization.

300.07A ~~One~~ A person whose only participation in the activities of the organization involves the conduct of gaming activities ~~shall~~ is not ~~be considered~~ a member.

300.08 Net profit means the gross profit from a pickle card unit less the unit cost and the allowable expenses incurred by the licensed organization for marketing the unit. For example:

Gross proceeds (3,600 ~~$1.00~~ pickle cards at $1)		$3,600~~.00~~
Less prizes		(2,600)
Definite profit		$1,000~~.00~~
Less pickle card operator's commission (30%)*		(300)
Gross profit		$ 700~~.00~~
Less elements of unit cost		
Cost of unit	$~~56.00~~ 60	
Imprinting fee	7~~.00~~	
Pickle card tax (10%)*	100~~.00~~	
Subtotal:	167	
~~State~~ Sales ~~Tax~~ tax ~~(5%)~~**	~~8.00~~ 12	
Federal tax~~,~~ (.0025 of gross)*** if applicable	9	
	$~~180.00~~ 188	
Allowable expenses ~~(8%)~~ (12%)*		
~~4%~~ 6% sales agents' commission	$ ~~40.00~~ 60	
Other ~~Marketing Expenses~~marketing expenses	~~40.00~~ 60	
	$ ~~80.00~~ 120	
Total unit cost and allowable expenses	$~~260.00~~ 308 ~~(260.00)~~	(308)
Net profit		$~~440.00~~ $392.00

* ~~calculated~~ Calculated on definite profit

** ~~calculated~~ Calculated on total unit cost, including the pickle card tax and the imprinting fee – sales tax may vary, the amount shown is rounded and assumes the maximum local rate

*** ~~calculated~~ Calculated on gross proceeds

300.09 Substantial interest means ~~connected, interested in, or otherwise concerned~~ a connection, interest, or concern, directly or indirectly, with an individual, organization, firm, or corporation as follows:

300.09A ~~With respect to~~ Regarding a sole proprietorship, an individual or his or her spouse who owns, operates, manages, or conducts directly or indirectly, a part of the sole proprietorship;

300.09B ~~With respect to~~ Regarding a partnership, an individual, his or her spouse, or a partnership, limited liability company (LLC), or corporation who owns, operates, manages, or conducts directly or indirectly a part of the partnership activity, or shares in any of the profits or potential profits of the partnership activities;

300.09C ~~With respect to~~ Regarding a ~~limited liability company~~ LLC, an individual, his or her spouse, or a partnership, ~~limited liability company~~ LLC, or corporation who owns, operates, manages, or conducts directly or indirectly a part of the ~~limited liability company~~ LLC activity, or shares in any of the profits or potential profits of the ~~limited liability company~~ LLC activity;

300.09D ~~With respect to~~ Regarding a corporation, an individual, his or her spouse, or a partnership, ~~limited liability company~~ LLC, or corporation who owns, operates, manages, or conducts directly or indirectly a part of the corporation activity, or who is an officer or director of the corporation or is a holder directly or indirectly of ten percent or more of any class of stock in the corporation;

30.09E ~~With respect to~~ Regarding an individual, ~~such~~ an individual or his or her spouse who provides ten percent or more of the capital, whether in cash, goods, or services for the operation of a manufacturer, distributor, or pickle card operator during a calendar year; and

300.09F ~~With respect to~~ Regarding an organization, association, or business not covered by subdivisions A, B, C, D, or E of this regulation:

300.09F(1) An individual or his or her spouse who is an officer or director of or manages the business affairs of the organization, association, or business; or

300.09F(2) An individual or his or her spouse who owns or controls ten percent or more of the assets of the organization, association, or business.

300.10 Ultimate use means the final purpose for which a licensed organization uses the proceeds or profits of a lottery by the sale of pickle cards ~~are put by a licensed organization~~. ~~In the case of~~ For expenses incurred by the organization, the ultimate use of pickle card proceeds to pay ~~such~~ the expenses ~~shall mean~~ means payment directly to the individual, business or corporation with whom the organization ~~has~~ incurred that particular expense. In the case of a lawful purpose donation, the ultimate use of pickle card net profits ~~shall mean~~ means that those monies are donated or directed by the licensed organization directly to the final recipient for the lawful purpose intended by the organization.

300.11 Unit cost means those costs incurred by a licensed organization connected with the purchase of a pickle card unit. Unit cost ~~shall consist~~ consists of the cost of the unit itself, the

pickle card tax, any applicable sales or use tax, any federal gaming tax for which a licensed organization may be liable, the imprinting fee charged by a licensed distributor, and any shipping or delivery fee if invoiced from the distributor to the licensed organization.

300.12 Youth Amateur Athletics or Youth Sports means activities sponsored by an organization which organizes, supervises, or administers team or individual activities ~~which consist~~ consisting of an element of enjoyment or recreation involving the practice of individual skill and in which all those participating on the team or in an individual activity are under the age of 19.

Sections 9-305.01, 9-306, 9-308, 9-308.01, 9-309, 9-314, 9-314.01, 9-321.01, 9-322, 9-326, 9-327, 9-329.01, 9-329.02, 9-329.03, 9-329.04, 9-336, 9-340, 9-344, 9-345.02, 9-345.03, 9-346 and 9-348, R.R.S. 2007 and sections 9-347 and 9-347.01, R.S. Supp., 2009. ~~November 12, 2002~~_____.)

REG-35-307 UTILIZATION OF FUNDS MEMBER; LICENSING REQUIREMENTS AND DUTIES

307.01 Each licensed organization must have at least one of its members licensed as a utilization of funds member. To be eligible for a utilization of funds member license, an individual must have been an active and bona fide member of the organization for at least one year prior to applying for the license.

307.01A If a licensed organization can provide evidence that the one-year membership requirement will impose an undue hardship, the Department may waive ~~such~~ the requirement. An officer of the organization must provide a written explanation of the nature of the hardship with the utilization of funds member's license application.

307.01B An individual may act as a utilization of funds member for more than one gaming activity of a licensed organization by paying only one licensing fee per licensing period.

307.01C An individual may be licensed as a utilization of funds member for more than one licensed organization by applying for a separate license for each organization and paying a separate licensing fee for each organization.

307.01D A utilization of funds member may not be licensed as a sales agent for any licensed organization or hold any other type of license issued under the Nebraska Bingo Act, the Nebraska Lottery and Raffle Act, or the Nebraska Pickle Card Lottery Act.

307.02 An individual is not considered to be licensed as a utilization of funds member and shall not conduct any activity for which ~~such~~ a license is required until he or she has obtained physical possession of the printed license issued by the Department. The licensed organization ~~shall~~ must apply for the license on a form supplied by the Department. The application ~~shall~~ must contain~~, at a minimum,~~ the following information:

307.02A The name and state identification number of the licensed organization on whose behalf the individual is seeking the utilization of funds member license;

307.02B The name, address, social security number, and date of birth of the individual applying for the utilization of funds member license;

307.02C The date the individual became a member of the licensed organization;

307.02D The signature of the individual applying for the license;

307.02E A statement signed by an officer of the licensed organization indicating the organization's approval of the individual to act as the utilization of funds member on behalf of the organization; and

307.02F The statutorily required license fee. ~~Such~~ The fee may be paid by the licensed organization.

307.03 The information contained in the application ~~shall~~ must be kept current. An individual licensed as a utilization of funds member ~~shall~~ must notify the Department within ~~thirty (~~30~~)~~ days of any changes to his or her most recent application filing. Changes must be reported in writing and the Department may require the filing of a new application.

307.04 A utilization of funds member license ~~shall expire~~ expires and may be renewed as provided in Regulation 35-302.08.

307.05 The licensed organization is not required to post the utilization of funds member's license.

307.06 A utilization of funds member for an organization licensed to conduct a lottery by pickle cards ~~shall have~~ has the following responsibilities:

307.06A ~~Preparation of~~ Preparing all applications, reports, and documents filed with any governmental agency by the licensed organization in connection with its lottery by the sale of pickle cards. If the utilization of funds member is assisted in the preparation of ~~such~~ the applications, reports, and documents by any other individual or business, the utilization of funds member shall ensure that the information contained in those reports is true, accurate, and kept up to date;

307.06B Ensuring that pickle card units purchased by the licensed organization are paid for by a check written from the licensed organization's pickle card checking account either in advance of or upon delivery of the pickle card units;

307.06C Ordering, purchasing, and accepting delivery of pickle card units from licensed distributors on behalf of the licensed organization;

307.06D ~~In the case of a Class II licensee, approving~~ Approving individuals to act as sales agents for the licensed organization, authorizing pickle card operators to sell pickle cards on behalf of the licensed organization, and signing any release the licensed organization may be obligated to give a former sales agent seeking to be licensed with another organization in the case of a Class II licensee;

307.06E Ensuring that the licensed organization complies with the 30 percent of definite profit limitation on commissions paid to pickle card operators, the ~~eight~~ 12 percent of definite profit limitation for allowable expenses, and~~,~~ within that ~~eight~~ 12 percent allowable expense limitation, ensuring that no sales agent of the organization receives more than ~~four~~ six percent of definite profit as a commission for marketing pickle card units;

307.06F Ensuring that his or her signature is on each check written from the organization's pickle card checking account. If an electronic funds transfer is utilized in lieu of a check, ~~such transfers~~ the transfer must be authorized by a utilization of funds member;

307.06F(1) A licensed organization may require that checks written by the utilization of funds member be co-signed by one or more parties.

307.06G Collecting all revenues received by sales agents from the sale of pickle card units to licensed pickle card operators;

307.06H Ensuring that complete and accurate records of the licensed organization's pickle card activities are kept, including the tracking of pickle card units sold and shipped or delivered to pickle card operators by the organization's sales agents. ~~Such~~ The records ~~shall~~ must include a description of the unit, the form number, serial number, and state identification stamp number of each ~~such~~ pickle card unit as well as the pickle card operator to whom the unit was delivered, the gross proceeds from the sale of all pickle card units both to pickle card operators and sold internally by the organization at its designated premises, special function pickle card sales events, and bingo occasions, prizes paid, expenses incurred by the organization relating to its lottery by pickle cards, and taxes due and paid;

307.06I Depositing the proceeds from the sale of pickle cards and pickle card units, from the sale, lease, or rental of pickle card dispensing devices into the pickle card checking account of the licensed organization and ensuring that the revenues derived from the lottery by pickle cards are segregated from other income of the licensed organization;

307.06I(1) ~~With respect to the depositing of~~ Ensuring that checks written by a pickle card operator for the purchase of pickle card units or for the sale, lease, or rental of a pickle card dispensing device~~, ensuring that such checks~~ are deposited within a commercially reasonable time after the pickle card operator issues the check.

307.06I(2) ~~In~~ When determining whether checks written by a pickle card operator have been deposited within a commercially reasonable time, the following factors shall be taken into consideration:

307.06I(2)(a) The proximity of the licensed organization to the bank ~~with which~~ where it has its pickle card checking account;

307.06I(2)(b) The location of the organization's pickle card operators; and

307.06I(2)(c) The ability of the organization's sales agents to deliver the checks from the pickle card operators to the organization.

307.06I(3) When ~~an~~ a licensed organization markets pickle cards through pickle card operators located in the same community as the organization and the organization maintains its pickle card checking account in that community, a commercially reasonable time for the depositing of a check received from a local pickle card operator ~~would be~~ is within three business days ~~from~~ after the receipt of the check by the sales agent.

307.06I(4) When ~~an~~ a licensed organization markets pickle cards through pickle card operators located in communities some distance from the location of the organization, and it is necessary for the sales agent to forward a check, either in person or by mail, to the organization, a commercially reasonable time for the sales agent to remit the check to the licensed organization ~~would be~~ is within three business days ~~of when~~ after the sales agent received the check and, upon receipt of the check, the utilization of funds member ~~would have~~ has three business days to deposit the check into the organization's pickle card checking account.

307.06I(5) ~~It shall be the~~ The regular practice of the organization must be to make its deposits within the timeframes set forth in this regulation. Failure to deposit checks within a commercially reasonable time or ~~the~~ accepting ~~of~~ post-dated checks shall be considered an illegal extension of credit from the organization to the pickle card operator.

307.06J ~~If pickle card revenues are transferred to the licensed organization's general fund account or any other account of the licensed organization,~~ ~~ensuring~~ Ensuring that ~~the~~ any transfer of pickle card revenues to the licensed organization's general fund account or any other account of the licensed organization is done only by a check written from the pickle card checking account or by an electronic funds transfer from such account, and that pickle card revenues transferred ~~in such manner~~ are used only for a lawful purpose as defined in Regulation 35-303;

307.06K Ensuring that the gross proceeds received from the lottery by the sale of pickle cards of the licensed organization are spent only for lawful purposes as defined in Regulation 35-303, the awarding of prizes, payment of unit costs, pickle card operators' commissions and allowable expenses as identified in Regulation 35-314, bingo expenses if the organization is also licensed to conduct bingo, and ensuring that all lawful purpose donations and all expenses with the exception of prizes are paid only by a check written from the organization's pickle card checking account;

307.06K(1) It ~~shall be~~ is the duty of the ~~licensed~~ utilization of funds member to keep and maintain records sufficient to prove that pickle card revenues transferred from the pickle card checking account have been used only for a lawful purpose; and

307.06L Ensuring that~~,~~ upon proper request, all records and documents relating to the licensed organization's ~~lottery by the~~ sale of pickle cards are made available to the Department or its representatives.

307.07 An individual licensed as a utilization of funds member ~~shall~~ may not have a substantial interest, as defined in Regulation 35-300.09, in any individual or business licensed as a manufacturer, distributor, or pickle card operator.

(Sections 9-322, 9-327, 9-328, 9-329, 9-331, 9-340.02, 9-342, 9-348, 9-348.01, and 9-349, R.R.S. 2007 and sections 9-347, and 9-347.01, R.S. Supp., 2009. ~~November 12, 2002~~_____.)

REG-35-314 EXPENSES

314.01 A Class II pickle card licensee ~~shall~~ may not allow more than 30 percent of the definite profit from each pickle card unit sold as commission to the pickle card operator. The pickle card operator's commission ~~shall~~ must be deducted from the definite profit of each pickle card unit sold in determining the amount to be paid by the pickle card operator to the licensed organization. That amount must be paid by check by the operator in advance of or at the time of delivery of the pickle card unit from the organization to the operator.

314.02 All licensed organizations conducting a lottery by the sale of pickle cards ~~shall~~ may not spend more than ~~eight~~ 12 percent of the definite profit from a pickle card unit to pay the allowable expenses of operating the lottery by the sale of pickle cards. Pickle card operators' commissions and unit cost are not included within the definition of allowable expenses.

The following types of expenses are included within the ~~eight~~ 12 percent expense limitation:

314.02A All costs associated with the purchasing, printing, or manufacturing of any items to be used or distributed to participants in the lottery by the sale of pickle cards, such as the cost of pickle card dispensing devices and racks if used by the licensed organization and not rented to a pickle card operator for fair market value;

314.02B Shipping or delivery charges incurred by the organization for delivery of pickle card units to licensed pickle card operators or any shipping or delivery costs on pickle card units received from a distributor which were not billed by the distributor as part of the unit cost;

314.02C All office expenses including, but not limited to, the cost of office supplies and bookkeeping materials, sales invoices, receipt books, postage costs, copying expenses, telephone costs, office equipment, and any other related office ~~expense~~ expenses incurred which are directly related to the operation of the lottery by pickle card activity;

314.02D Promotional expenses such as advertising; any federal gaming license for the organization, any pickle card dispensing device registration fee for the organization, any pickle card dispensing device repairs or maintenance paid by the organization, and any other costs incurred which are directly related to the promotion of the lottery by pickle card activity;

~~314.02E Any license fees paid by the organization to license itself, its utilization of funds member, or its sales agent(s) and any actual fees charged for fingerprinting the organization's sales agent(s);~~

~~314.02E(1) Any pickle card operator's license fee, federal wagering tax, cost of a pickle card dispensing device, pickle card dispensing device registration fees, or other expenses incurred by a pickle card operator in connection with the sale of pickle cards are not considered allowable expenses and shall not be paid or reimbursed by the licensed organization or any of its members, employees or agents;~~

~~314.02F~~ 314.02E All salaries paid to persons to operate the lottery by the sale of pickle cards, such as salaries, or wages paid to individuals involved with the operation of the pickle card ~~lottery~~ activity, including bookkeepers and other office staff, utilization of funds members, sales agents, whether commissioned or salaried, officers ~~and/~~or managers of the organization who are paid for their participation in the pickle card activity, and any other related salaries or wages;

~~314.02G~~ 314.02F Any rental or lease expense for real or personal property ~~utilized~~ used and directly related to the operation of the pickle card activity, such as office or storage space rental, office equipment rental, car rental, and pickle card dispensing device rental; and

~~314.02H~~ 314.02G Any fee paid to any person associated with the operation of any lottery by the sale of pickle cards, such as fees to consultants, attorneys, fundraisers, and other professionals for services performed which are directly related to the organization's pickle card activities. This ~~shall include~~ includes payments to an individual, firm, or corporation with whom the licensed organization contracts for services relating to the operation of the lottery by the sale of pickle cards. This ~~shall~~ also ~~include~~ includes any commission or fee paid to a sales agent and any reasonable and necessary expense for which a sales agent is reimbursed.

314.03 License fees paid by the organization to license itself, its utilization of funds member, or its sales agents and any actual fees charged for fingerprinting the organization's sales agents are not included in determining the 12-percent limitation on allowable expenses.

314.03A Pickle card operator license fees, federal wagering taxes, costs of a pickle card dispensing device, pickle card dispensing device registration fees, and other expenses incurred by a pickle card operator in connection with the sale of pickle cards are not considered allowable expenses and may not be paid or reimbursed by the licensed organization or any of its members, employees or agents.

~~314.02I~~ 314.04 A licensed organization ~~shall~~ may not use pickle card monies to pay any fine imposed pursuant to the Nebraska Bingo Act, Nebraska Pickle Card Lottery Act, or Nebraska Lottery and Raffle Act.

~~314.03~~ 314.05 A Class II pickle card licensee ~~shall~~ may not pay a sales agent more than ~~four~~ six percent of the definite profit of a pickle card unit as a commission, salary, or fee for the marketing of the pickle card unit. The ~~four~~ six percent sales agent's limitation ~~shall be~~ is included within the ~~eight~~ 12 percent overall allowable expense limitation.

314.05A For example, if a licensed organization pays its sales agent ~~four~~ six percent of the definite profit of a pickle card unit, its remaining allowable expenses may not exceed ~~four~~ six percent of the definite profit (~~8% - 4% = 4%~~ 12% - 6% = 6%). Additionally, if a licensed organization incurs other allowable expenses of ~~five~~ seven percent, it cannot pay its sales agent more than ~~three~~ five percent of the definite profit of a pickle card unit. Any payments to sales agents in connection with a lottery by the sale of pickle cards ~~shall~~ must be made by check, from the licensed organization's pickle card bank account and signed by the organization's utilization of funds member.

~~314.03A~~ 314.05B A licensed organization may reimburse a sales agent for reasonable and necessary expenses incurred while performing the sales agent's duties. Such reimbursed expenses ~~shall~~ may not be included in the ~~four~~ six percent limitation on a sales agent's commission but ~~shall~~ may be included in the ~~eight~~ 12 percent overall allowable expense limitation.

~~314.04~~ 314.06 To determine whether a licensed organization is within the ~~eight~~ 12 percent of definite profit allowable expense limitation~~,~~ when an expense cannot be directly attributed to a particular pickle card unit, such as a bookkeeper or consultant fee, the total expense should be allocated to all units sold, either based upon previous experience, or a reasonable projection of sales for the annual reporting period. Salaries and other expenses which are not entirely attributable to the pickle card activity may be allocated on the basis of the percentage of time spent on pickle card activities.

~~314.05~~ 314.07 The Nebraska Pickle Card Lottery Act allows a maximum of ~~eight~~ 12 percent of the definite profit per pickle card unit to pay all allowable expenses. The following formula should be used to calculate the allowable expense limitation:

Definite profit x ~~8%~~ 12% = Allowable Expense Limitation

EXAMPLE:

Gross proceeds	$3,600~~.00~~
Less prizes	2,600
Definite profit	$1,000~~.00~~

$1,000~~.00~~ (Definite Profit) x ~~.08~~.12 = ~~$80.00~~ 120 (Allowable Expense)

~~314.06~~ 314.08 All allowable expenses paid by a licensed organization in connection with its lottery by the sale of pickle cards ~~shall~~ must be paid by a check drawn on the organization's pickle card bank account. ~~Such checks~~ Checks must be paid directly to the person, firm or corporation with whom the expense was incurred.

(Sections 9-1,104, 9-304, 9-322, 9-340.02, 9-345.03, 9-348 and 9-348.01, R.R.S. 2007 and sections 9-347, and 9-347.01, R.S. Supp., 2009. ~~November 12, 2002~~_____.)

REG-35-621 AUTOMATED BALL DRAW SYSTEM

621.01 For the purposes of this regulation, the following definitions ~~shall~~ apply:

621.01A Automated ball draw system means a mechanical and electronic system consisting of machine readable keno balls, an electronic blower device, ball calling unit, glass bowl, control unit, and vision system which:

621.01A(1) Selects the winning numbers for the keno game ~~After~~ after the keno operator informs the keno system to begin a new game~~, selects the winning numbers for the keno game~~;

621.01A(2) ~~By use of the vision system, reads~~ Reads the number of the keno ball by use of the vision system; and

621.01A(3) ~~After confirmation by the vision system of the ball number read, electronically~~ Electronically transmits the number to the keno system as if the keno operator had manually entered the number into the system after confirmation by the vision system of the ball number read.

621.01B No Read ~~Condition~~ condition - means the automated ball draw system is unable to read the number of the keno ball.

621.01C Misread ~~Condition~~ condition - means the automated ball draw system reads the number of the keno ball incorrectly. The number of the ball selected as it appears in the ball calling unit is not the same as the number of the ball transmitted electronically to the keno system.

621.01D Keno ~~Management Personnel~~ management personnel ~~for the purpose of this regulation, keno management personnel shall mean~~ means management or administrative personnel of the lottery operator other than an on-site shift manager or shift supervisor in charge of the daily operation of the keno game.

621.01E Selected ~~Ball~~ ball – means the keno ball selected by the automated ball draw system for a particular wheel position in a particular game. A keno ball is ~~considered~~ selected when the number of ~~such~~ the ball has been electronically transmitted to and recorded by the keno system and the wheel has advanced to the next empty position.

621.02 An automated ball draw system and related keno system software ~~shall~~ may be sold, leased, rented, or otherwise provided in Nebraska only by a licensed manufacturer-distributor of lottery equipment. Unless otherwise authorized by the Department, no automated ball draw system and related keno system software may be sold, leased, rented, or otherwise provided in this state for use in a keno lottery conducted pursuant to the Nebraska County and City Lottery Act unless and until ~~such time as~~ the automated ball draw system and related keno system software has been approved by the Department. Approval ~~shall be~~ is based on conformance with the written requirements of this regulation and any other test criteria established by the Department for the testing and evaluation of these types of systems.

621.03 A licensed manufacturer-distributor seeking approval of an automated ball draw system and related keno system software ~~shall~~ must adhere to the requirements of County and City Lottery Reg-35-617 ~~as it relates~~ relating to the submission of lottery equipment for testing and approval.

621.04 The vision system consisting of a computer, monitor, and camera ~~shall~~ may be used only for system set up, monitoring of system performance, and system adjustments and ~~shall~~ may not perform any functions related to the conduct of the keno lottery except for ~~the~~ reading ~~of~~ the numbers of the keno balls and ~~the~~ electronic transmission of the numbers read either directly or through an approved interface unit to a keno system approved for use in Nebraska.

621.04A The vision system ~~shall~~ may be maintained only by the manufacturer-distributor of the automated ball draw system or its authorized representative, and ~~shall be~~ operated only by the keno manager on duty.

621.04B The camera which reads the numbers of the keno balls ~~shall~~ must be secured in a locked box or by ~~such~~ other means approved by the Department and accessed solely for system set up, adjustments, and required system maintenance by an authorized representative of the licensed manufacturer-distributor of the automated ball draw system or an authorized representative of the lottery operator or sponsoring county, city, or village. The key for a locked box arrangement ~~shall~~ must be secured by management personnel when not in use.

621.04C The keno balls used in conjunction with the automated ball draw system must be supplied by the licensed manufacturer-distributor of the automated ball draw system and approved for use by the Department. The keno balls may be supplied by another licensed manufacturer-distributor of lottery equipment ~~provided~~ if the keno balls meet the specifications of the licensed manufacturer-distributor of the automated ball draw system and have been approved for use by the Department.

621.05 In addition to the technical standards for lottery equipment prescribed in County and City Lottery Reg-35-617.13, ~~the following shall be required of~~ all keno systems which communicate directly or through an approved interface unit with an automated ball draw system must include the following characteristics:

621.05A The use of an automated ball draw system for winning number selection must be an option in the system configuration menu which can be enabled only by the licensed manufacturer-distributor of the keno system, its authorized representative, or keno management personnel with appropriate password authorization.

621.05B All access to the system configuration menu to enable or disable the automated ball draw system must be recorded on the system exception log.

621.05C When the blower is activated on the automated ball draw system, it must send a message to the keno system and receive an acknowledgment which is recorded on the transaction log or system exception log. The transaction log must also reflect that winning number selection for the game was performed by an automated ball draw system.

621.05D All numbers selected must be sent to the keno system and recorded on the transaction log for the current game number. If there are not any No Read conditions

detected during the winning number selection process, the keno system must verify that no two numbers are the same. If 20 unique numbers are reported, the system records the draw as official and calculates the game results in the same manner as any other method of winning number selection.

621.05E If a No Read condition occurs during the winning number selection process or duplicate numbers are supplied to the system, the system must alert the operator of the condition and require the operator ~~intervention~~ to intervene and make the appropriate corrections to the draw before the game is declared official. All No Read conditions and duplicate number occurrences which require operator intervention must be recorded on the transaction log or system exception log and summarized in an ~~End of Day~~ end of day report. The system must be capable of maintaining a cumulative record of ~~such~~ these occurrences for periodic audit purposes;

621.05F Operator intervention to correct a No Read condition ~~can~~ may only be performed with authorized password access and is limited to keno managers.

621.05G ~~When~~ If operator intervention is required to correct a No Read condition, only the numbers not read or duplicate numbers can be changed. The keno system ~~must~~ may not allow valid numbers to be changed. All corrections performed by the keno manager must be recorded on the transaction log or system exception log reflecting the ball position not read, the ball number entered, and the user identification number of the individual who made the change; for example, "Ball position 4 manually entered as number 36 by 999."

621.05H The edit ball draw feature of the keno system ~~shall~~ must be disabled when using an automated ball draw system for winning number selection.

621.05I If the automated ball draw system malfunctions due to component failure prior to the completion of the draw, the ball draw ~~shall be considered~~ is invalid and the game must be redrawn after the malfunction has been remedied. All ~~such~~ these occurrences must be recorded on the transaction log or system exception log with a notation that the game was redrawn. ~~In order to~~ The operator may initiate a redraw of a game~~, operator intervention~~ only with authorized password access by the keno manager ~~is required~~.

621.05J If the keno system powers down or otherwise fails prior to the completion of the draw, the automated ball draw system must continue to send the numbers selected to the keno system until the keno system acknowledges receipt of the information. The keno system must be capable of resuming the winning number selection process from the point when the power went down or the system ~~failure occurred~~ failed. ~~In order to minimize the occurrence of power fluctuations or power loss, the~~ The keno system must be equipped with an ~~Uninterrupted Power Source~~ uninterrupted power source (UPS) to minimize the occurrence of power fluctuations or power loss. The UPS ~~shall~~ must meet the minimum specifications recommended by the licensed manufacturer-distributor of the keno system and ~~shall~~ must be of sufficient run time to enable the completion of the ball draw process during power fluctuations or power losses of short duration.

621.05K If the automated ball draw system powers down or otherwise fails prior to the completion of the draw and it drops all or any of the balls previously selected, the ball draw ~~shall be considered~~ is invalid and the game must be redrawn after power has been

restored to the system or the system is rendered operable again. ~~In order~~ For the operator to initiate a redraw of a game~~, operator intervention with~~ authorized password access by the keno manager is required. If the system is designed so that none of the balls previously selected are dropped, the ball draw can resume from the point when the power down or system failure occurred. All automated ball draw system interruptions must be recorded on the transaction log or system exception log. ~~In order to minimize the occurrence of power fluctuations or power loss, the~~ The automated ball draw system must be equipped with an ~~Uninterrupted Power Source (~~UPS~~)~~ to minimize the occurrence of power fluctuations or power loss. The UPS ~~shall~~ must meet the minimum specifications recommended by the licensed manufacturer-distributor of the automated ball draw system and ~~shall~~ be of sufficient run time to enable the completion of the ball draw process during power fluctuations or power losses of short duration.

621.06 When winning numbers are selected using an automated ball draw system, ~~Number~~ number selection and verification ~~shall~~ must be conducted in the following manner ~~when winning numbers are selected using an automated ball draw system~~:

621.06A After the keno manager informs the keno system to begin a new game, the ball numbers must be randomly selected by the automated ball draw system and electronically transmitted to the keno system either directly or through an approved interface unit.

621.06B Only one individual ~~is required to~~ must be on duty when winning number selection is performed by use of an automated ball draw system. However, this individual must have at least keno manager responsibility.

621.06C Cameras must be used to videotape or digitally record the following prior to, during, and ~~subsequent to~~ after ~~the~~ calling ~~of~~ a game, respectively:

621.06C(1) Empty ball calling unit;

621.06C(2) Date and time;

621.06C(3) Game number;

621.06C(4) Ball calling unit throat;

621.06C(5) The entire wheel and all ball numbers selected or each wheel position and each individual ball number selected; and

621.06C(6) The immediate work area where the automated ball draw system is located.

621.06D The videotape or the digital recording of the ball calling unit throat and each occupied wheel position must provide a legible identification of the numbers on the balls drawn. If a split image screen is used ~~in order~~ to accomplish the required views, each track must be capable of ~~being independently played~~ independent play in a full screen format.

621.06E If the ~~The~~ game number ~~is not required to be videotaped or digitally recorded if it~~ can be determined by comparing the date and time display on the videotape or the digital recording to the date and time of the game recorded on the keno system transaction log the game number need not be videotaped or digitally recorded.

621.06F Videotapes or digital recordings must be retained for at least three ~~(3)~~ months or until the keno compliance procedures are completed, whichever is later.

621.06G All security camera systems used in conjunction with an automated ball draw system must be inspected and approved by the Department prior to the use of the automated ball draw system.

621.06H The automated ball draw system must be configured by the licensed manufacturer-distributor of the system or by the licensed manufacturer-distributor of the keno system to render it inoperable when the video or digital recording device malfunctions or the video or digital recording device is out of recording capacity~~, for example~~. ~~Such safeguard~~ These safeguards must be inspected and approved by the Department prior to the use of the automated ball draw system.

621.06I If a No Read condition occurs during the winning number selection process or duplicate numbers are supplied to the system, the keno system will alert the individual on duty and he or she, or another keno manager, must access the system with appropriate password authorization to make the appropriate ~~correction(s)~~ corrections to the draw before the game is declared official. The individual on duty, or another keno manager, ~~shall~~ must determine the ~~correction(s)~~ corrections to be made by visual observation of the wheel ~~position(s)~~ positions in the ball calling unit.

621.06J ~~On a daily basis, all~~ All No Read conditions and duplicate number occurrences which required operator intervention to correct must be reviewed by keno management personnel daily to insure that the ~~correction(s)~~ corrections made were appropriate. This review ~~shall~~ may not be performed by the ~~individual(s)~~ individuals on duty for the day or time being evaluated. This review must be accomplished by reviewing the video or digital recording of the applicable game's draw and determining that the ~~correction~~ corrections made ~~was~~ were appropriate. Any discrepancies noted must be communicated immediately to the Department and the sponsoring county, city, or village. Telephone, fax, e-mail, or written communications are acceptable. This review may be performed at a location other than the location where the ball draw ~~occurs~~ occurred. A written record of the daily review ~~shall~~ must be maintained by keno management personnel and include the game numbers reviewed, the results of the review, and the signatures of the ~~individual(s)~~ individuals who performed the review.

621.06K If a Misread condition is detected during or after the completion of the draw but prior to ~~the~~ closing ~~of~~ the next game, the Department and the sponsoring county, city, or village ~~shall immediately~~ must be notified immediately of the occurrence by telephone. The Department will determine the corrective action to be taken.

~~621.06L On a daily basis, keno management personnel must verify the game draw for a minimum of 10 percent of the games run for the previous day to determine if any undetected Misread conditions or other ball draw irregularities occurred during that day's activity. This review must be accomplished by reviewing the video recording of the game draw and comparing this information to the winning numbers recorded by the keno system for that game. This review shall not be performed by the individual(s) on duty for the day or time being evaluated. Any undetected Misread conditions or ball draw irregularities noted must be communicated immediately to the Department and the sponsoring county, city, or village. This review may be performed at a location other~~

~~than the location where the ball draw occurs. A written record of the daily review shall be maintained by keno management personnel and include the game numbers reviewed, the results of the review, and the signatures of the individual(s) who performed the review.~~

~~621.06M~~ 621.06L If the automated ball draw system malfunctions due to component failure prior to the completion of the draw, the ball draw ~~shall be considered~~ is invalid and the game must be redrawn after the malfunction has been remedied. The keno manager ~~shall~~ must announce to ~~the~~ players at the main location that a problem has been encountered during the ball draw and provide players the opportunity to request a refund of any single race tickets they have purchased for that game. Players with active multirace tickets may quit the race, ~~and~~ be paid any accumulated winnings, and be refunded the amount wagered for games not played. All ~~such~~ these occurrences must be recorded on the transaction log or system exception log with a notation that the game was redrawn. The keno manager ~~will~~ may initiate a redraw of a game only after the problem has been corrected and all requested refunds and accumulated winnings on multirace tickets have been paid.

> ~~621.06M(1)~~ 621.06L(1) If the problem which caused the failure of the automated ball draw system cannot be immediately remedied, the keno manager ~~shall~~ must announce to ~~the~~ players at the main location that a problem has been encountered during the ball draw and provide players the opportunity to request a refund of any single race tickets they have purchased for that game. Players with active multirace tickets may quit the race, ~~and~~ be paid any accumulated winnings, and be refunded the amount wagered for games not played. The keno game may be resumed with the approval of the sponsoring county, city, or village with an alternative method of winning number selection, either random number generator or manual ball draw. ~~Such~~ This circumstance ~~will be considered~~ is an emergency situation ~~and~~ which must be reported to the Department within 24 hours of its occurrence. The change in the method of winning number selection must be performed in the system configuration menu by the licensed manufacturer-distributor of the keno system, its authorized representative, or keno management personnel with appropriate password authorization and must be recorded on the system exception log.
>
> ~~621.06M(2)~~ 621.06L(2) Once the problem with the automated ball draw system has been corrected, the keno game may resume ~~with the use of~~ using the automated ball draw system. The automated ball draw method of winning number selection ~~shall~~ will be reactivated in the manner prescribed in this regulation.

~~621.06N~~ 621.06M If the automated ball draw system powers down prior to the completion of the draw and it drops all or any of the balls previously selected, the ball draw ~~shall be considered~~ is invalid and the game must be redrawn after power has been restored to the system. The keno manager ~~shall~~ must announce to ~~the~~ players at the main location that a problem has been encountered during the ball draw and provide players the opportunity to request a refund of any single race tickets they have purchased for that game. Players with active multirace tickets may quit the race, ~~and~~ be paid any

accumulated winnings, and be refunded the amount wagered for games not played. All ~~such~~ these occurrences must be recorded on the transaction log or system exception log with a notation that the game was redrawn. The keno manager ~~will~~ may initiate a redraw of a game only after the problem has been corrected and all requested refunds and accumulated winnings on multirace tickets have been paid. If the system is designed so that none of the balls previously selected are dropped, the ball draw can resume from the point when the power down or system failure occurred.

~~621.06O~~ 621.06N ~~In the event~~ If a ball splits in half during a ball draw selection process and one-half of the ball is selected or both halves are selected, the ball draw ~~shall be considered~~ is invalid and the game must be redrawn after the damaged ball has been replaced. The keno manager ~~shall~~ must announce to ~~the~~ players at the main location that a problem has been encountered during the ball draw and provide players the opportunity to request a refund of any single race tickets they have purchased for that game. Players with active multirace tickets may quit the race, ~~and~~ be paid any accumulated winnings, and be refunded the amount wagered for games not played. The keno manager ~~will~~ may initiate a redraw of a game only after the problem has been corrected and all requested refunds and accumulated winnings on multirace tickets have been paid. All ~~such~~ these occurrences must be recorded on the transaction log or system exception log with a notation that the game was redrawn.

~~621.06P~~ 621.06O All winning ticket verifications ~~shall~~ must be performed in accordance with the requirements of County and City Lottery Reg-35-613.06.

~~621.06Q~~ 621.06P A county, city, village, or lottery operator using an automated ball draw system for winning number selection may not deviate from the operational procedures ~~contained~~ in this regulation unless otherwise authorized by the Department based upon a written request from the county, city, village, or lottery operator ~~prescribing such~~ describing the alternative procedures. A request made by a lottery operator ~~shall~~ must have the concurrence of the county, city, or village prior to ~~its~~ submission to the Department.

621.07 ~~In order to~~ To minimize the occurrence of No Read and Misread conditions, the keno manager:

621.07A Must inspect all keno balls for cleanliness and defects prior to use at the beginning of each day. Cracked balls and any balls on which the optical coding or numbers have been worn off must be replaced. The keno balls must be waxed periodically according to directions provided by the licensed manufacturer-distributor of the automated ball draw system. Back-up keno ball inventories ~~shall~~ must be maintained in a locked storage cabinet to prevent unauthorized access.

621.07B Must inspect and clean the ball calling unit periodically according to directions provided by the manufacturer-distributor of the automated ball draw system.

621.07C Must clean the glass lens on the camera inside ~~of~~ the ball calling unit periodically according to directions provided by the manufacturer-distributor of the automated ball draw system.

621.08 A county, city, village, or lottery operator using an automated ball draw system for winning number selection ~~shall~~ must adhere to all other requirements of County and City Lottery Reg-35-614 ~~as it relates~~ relating to the maintenance of lottery equipment.

(Sections 9-606.02, 9-607, 9-613, 9-619, 9-620, 9-635, and 9-640, R.R.S. 2007. ~~November 12, 2002~~ _____.)