

**DEPARTMENT OF FINANCE
OFFICE OF THE STATE LOTTERY**

Statutory Authority: 29 Delaware Code, Section 4819A (29 **Del.C.** §4819A)
10 **DE Admin. Code** 205

FINAL

ORDER

205 Delaware Charitable Video Lottery Regulations

The Director of the Office of the State Lottery ("Director") issues this Order to take effect ten (10) days after it has been published in the Delaware *Register of Regulations*:

1. Pursuant to his statutory authority, the Director proposed for adoption revisions to the Office of the State Lottery's existing charitable video lottery regulations (10 DE Admin. Code 205) to remove the annual requirement for Charitable Gaming Organizations (CGOs) to submit an affidavit of membership if that CGO does not wish to exceed the minimum number of allowable video lottery machines. Other regulations issued by the Director are not affected by this Order.

2. The statutory authority for these revisions is **29 Del.C. §§ 4819A**.

3. A copy of the proposed regulations was published in the January 1, 2024 edition of the Delaware *Register of Regulations* and has been available for inspection in the Office of the State Lottery, 1575 McKee Road, Suite 102, Dover, Delaware 19904 during regular office hours.

4. The Director did not receive any written comments on the proposed regulations during the thirty-day period following publication of the proposed regulations on January 1, 2024.

5. The Director finds that the proposed changes as set forth in the January 2024 *Register of Regulations* should be adopted as submitted.

DECISION AND ORDER CONCERNING THE REGULATIONS

NOW THEREFORE, under the statutory authority and for the reasons set forth above, the Director of the Office of the State Lottery does hereby ORDER that the regulations be, and that they hereby are, enacted as set forth below. The effective date of this Order is ten days from the date of its publication in the Delaware *Register of Regulations*, in accordance with 29 **Del.C.** §10118(g).

Feb. 02, 2024

Date

Helene Keeley, Director
Office of the State Lottery

205 Delaware Charitable Video Lottery Regulations

1.0 Introduction: Role of State Lottery Office

These regulations are authorized pursuant to 29 **Del.C.** §§4819A and 4805(a)(14), (a)(20), (a)(33), and (b)(14) of Title 29 of the Delaware Code. Charitable Video Lottery operations in the State of Delaware are strictly regulated by the Delaware State Lottery Office through the powers delegated to the Director of the Lottery pursuant to Title 29 of the Delaware Code.

2.0 Definitions

The following words and terms, when used in this regulation, have the following meaning unless the context clearly indicates otherwise. Words importing the masculine gender include the feminine as well, except as otherwise clearly indicated by the context.

"Agency" or **"lottery office"** means the Delaware State Lottery Office created pursuant to 29 **Del.C.** Ch. 48.

"Agent" or **"licensed agent"** or **"charitable video lottery agent"** means any person licensed by the Director of the agency to conduct charitable video lottery operations.

"Applicant" means any person applying for a license authorized under these rules.

"Background investigation" means the security, fitness and background checks conducted of an applicant.

"Certification" means the authorization by the lottery office in accordance with its inspection and approval process of charitable video lottery machines, such certification to relate to either hardware or software.

"Charitable gaming organization" means an (i) organization that was in existence as of January 1, 2013, and qualifies as a fraternal or veterans organization with national affiliation or (ii) an organization that was in existence as of January 1, 2013, and whose membership consists primarily of veterans honorably discharged or active duty service members.

"Charitable gaming vendor" means any person who supplies goods or services relating to the manufacture, operation, maintenance, security, distribution, service or repair of charitable video lottery machines.

"Charitable video lottery" means any lottery with an aggregate progression prize or prizes and conducted with a charitable video lottery machine or a linked charitable video lottery machine.

"Charitable video lottery facility" means a building containing a gaming room or rooms that is located on the premises of a charitable video lottery agent.

"Charitable video lottery machine" means any machine that (i) may use spinning reels or video displays or both, and (ii) in which coins, bills, electronic credits, or tokens are deposited by a player in order to play any game of chance in which the results, including options available to the player, are randomly determined by the machine, and (iii) may or may not dispense coins or tokens directly to a winning player.

"Credit" means the opportunity provided to a player to play a video game or redeem the credit for cash.

"Credit slip" means the receipt issued from a charitable video lottery machine for payment of credits by an agent.

"DGE" means the Division of Gaming Enforcement of the Department of Safety and Homeland Security, as authorized by the Delaware Code.

"Director" means the Director of the Delaware State Lottery Office as established by Title 29, Chapter 48 of the Delaware Code.

"Gaming" means the operating, carrying on, maintaining or exposing for play any charitable video lottery machine in a licensed agent's gaming area.

"Gaming area" means a location in a charitable video lottery facility where gaming activity is conducted at charitable video lottery machines.

"License" means the authorization granted by the agency which permits an applicant to engage in defined charitable video lottery activities either as an agent or a charitable gaming vendor.

"License application" means the process by which a person requests licensing for participation in charitable video lottery operations.

"Licensee" means any person authorized by the Director to participate in charitable video lottery operations.

"Lottery" means the public gaming system or games established and operated by the lottery office.

"Lottery Commission" means the Lottery Commission of the State of Delaware as established by 29 Del.C. §4837.

"MEAL" means a written Machine Entry Authorization Log stored inside the charitable video lottery machine.

"Net charitable video lottery game proceeds" means the total amount of credits or cash played less the total amount of credits or cash won by the players and does not include (i) sums withheld from players' winnings for tax liabilities incurred by the players or (ii) amounts held in reserve for large or progressive prizes yet to be won by players.

"Officer" means (i) as to a charitable gaming organization, an individual who is an elected or designated member of the charitable gaming organization or an individual who will assume responsibility for the charitable gaming organization and (ii) as to a charitable gaming vendor, an individual who is a president, vice president, member, member-manager, partner, trustee, or other designated individual who has the legal power and authority to make management decisions for the charitable gaming vendor.

"Owner" means a person who owns, directly or indirectly, 10% or more of an applicant or licensee.

"Person" means an individual, a partnership, a corporation or any other type of business entity or legal entity.

"Player" means an individual who plays on a charitable video lottery machine.

"Premises" means the building and grounds occupied by a licensed agent where the agent's charitable video lottery operations occur or support facilities for such operations exist, such as facilities for the service of food or drink, including those areas not normally open to the public, such as areas where records related to charitable video lottery operations are kept.

"Video game" means any game played on a charitable video lottery machine, including, but not limited to, a variation of poker, blackjack, instant or line-up games.

"Video game event outcome" means the result of a video game achieved by a player at a charitable video lottery machine.

3.0 Licensing of Agents

- 3.1 Any applicant desiring to obtain a license to act as an agent shall apply to the agency on forms specified by the Director. Application forms shall require the applicant to provide the following, without limitation:
 - 3.1.1 The applicant's full legal name, address, type of organization (fraternal or veterans), organizational identification number or Federal Employer's Identification Number (FEIN); and the names, addresses, social security numbers and dates of birth of all officers of the applicant's organization.
 - 3.1.2 Certified copies of the applicant's certificate of incorporation, certificate of formation, or a certificate of good standing, and other documents that constitute or explain the legal organization of the applicant.
 - 3.1.3 Any and all other information as the Director may require to determine the competence, honesty and integrity of the applicant as required by Title 29, Chapter 48 of the Delaware Code.
- 3.2 The application, as well as other documents submitted to the agency by or on behalf of the applicant for purposes of determining the qualifications of the applicant, shall be sworn to or affirmed before a notary public.
- 3.3 Upon request of the agency, the applicant shall supplement the information provided in the application as deemed necessary by the agency. The applicant shall furnish all information, including financial data and documents, certifications, consents, waivers, individual history forms, tax returns, cancelled checks or other materials required or requested by the agency for purposes of determining the qualifications of the applicant.
- 3.4 To the extent, if any, that the information supplied in the application, or otherwise supplied by the applicant or on the applicant's behalf, becomes inaccurate or incomplete, the applicant shall so notify the agency in writing as soon as it is aware that the information is inaccurate or incomplete and shall at that time supply the information necessary to correct the inaccuracy or incompleteness of the information.
- 3.5 The applicant shall cooperate fully with the agency and the DGE with respect to the applicant's background investigation. Among other things, the applicant, upon request, shall make available any and all of its books or records for inspection by the agency or the DGE.
- 3.6 As soon as the agency has determined that the application is complete, it shall forward the same to the DGE, which shall, as soon as practicable, undertake and complete the background investigation of the applicant and its officers and report its findings to the agency.
- 3.7 The Director shall weigh the following factors in his or her evaluation of the application:
 - 3.7.1 The criminal background, if any, of the applicant or any of its officers. No license shall be issued to any applicant if any of the persons identified on the application have been convicted, within ten (10) years prior to the filing of the application, of any felony, a crime of moral turpitude or a crime involving gambling.
 - 3.7.2 The degree to which the applicant has supplied accurate and complete information pursuant to the requirements of these rules.
 - 3.7.3 The extent to which the applicant has cooperated with the agency and the DGE in connection with the background investigation.
 - 3.7.4 Whether the person, or any of its officers, are known to associate with persons of nefarious backgrounds or disreputable character such that the association could adversely affect the general credibility, security, integrity, honesty, fairness or reputation of the lottery office.
 - 3.7.5 With respect to any past conduct which may adversely reflect upon the applicant, the nature of the conduct, the amount of time that has passed since the conduct, the frequency of the conduct and any extenuating circumstances that affect or reduce the impact of the conduct or otherwise reflect upon the applicant's fitness for the license.
 - 3.7.6 The extent, if any, to which the applicant has failed to comply with any applicable tax laws of the federal, state or local governments.
 - 3.7.7 Any other information before the Director, including substantially similar background investigations performed by other agencies or jurisdictions, which relates to the applicant's competency, financial capability, honesty, integrity, reputation, habits, or associations.
- 3.8 A license shall be issued to the applicant if the Director is satisfied, upon consideration of the factors specified in subsection 3.7, that the applicant would be a fit agent and not pose a threat to the public interest, the reputation of the lottery office, or the effective control of the lottery office.
- 3.9 The granting of any license to an agent or the renewal of an agent's license is subject to the following conditions:
 - 3.9.1 Operation pursuant to a license issued under these rules shall signify agreement by the agent to abide by all provisions of these rules and the requirements of Delaware and federal laws and regulations.
 - 3.9.2 The agent shall at all times make its premises available for inspection during all operational hours by authorized representatives of the agency or the DGE personnel. The lottery office and the DGE shall be

authorized to enter the premises and to access any charitable video lottery machines or records of the agent without acquiring a warrant.

- 3.9.3 To the extent permitted by law, an agent accepts all risks of adverse public notice, embarrassment, criticism, damages, or financial loss which may result from any disclosure or publication of material or information supplied to the agency in connection with the application for the agent's operations.
 - 3.9.4 An agent shall immediately notify the agency of any proposed or effective change regarding the makeup of the officers who assume responsibility of the agent.
 - 3.9.5 An agent has a continuing duty to maintain suitability for licensure. A license does not create a property right, but is a revocable privilege that is contingent upon the agent's continuing suitability for licensure.
 - 3.9.6 An agent may not transfer, assign, or pledge as collateral any license to which it has been granted. If, after the Director has issued a license to an agent, the agent's organization loses its good standing with the State of Delaware or if any other action occurs which causes the agent to no longer qualify as a Charitable Gaming Organization as defined in 29 **Del.C.** §4803(a), the agent's license will automatically terminate ninety (90) days after such event.
- 3.10 To the extent provided by law, any information obtained pursuant to this Section 3 shall be held in confidence and not subject to the Delaware Freedom of Information Act, 29 **Del.C.** Ch. 100.

4.0 Licensing of Charitable Gaming Vendors

- 4.1 Any person who expresses an interest in being selected to be a charitable gaming vendor must file an application for a charitable gaming vendor license in accordance with these rules.
- 4.2 A charitable gaming vendor shall be licensed in accordance with these rules prior to conducting any business with the lottery office or any charitable video lottery agent; provided, however, that upon a finding of good cause by the Director for each business transaction, the Director may permit an applicant for said license to conduct business transactions prior to the issuance of the license.
- 4.3 Each person desiring to obtain a license from the agency as a charitable gaming vendor shall submit a license application on a form specified and supplied by the agency. The license application shall, among other things:
 - 4.3.1 Give notice that the applicant will be required to submit to a background investigation.
 - 4.3.2 Require the applicant to supply specified information and documents related to the applicant's fitness and the background of its owners.
 - 4.3.3 Require the applicant to disclose its legal name and its type of business entity (e.g., general or limited partnership, corporation, etc.).
- 4.4 The Director shall weigh the following factors in his or her evaluation of the application:
 - 4.4.1 The criminal background, if any, of the applicant or any of its officers. No license shall be issued to any applicant if any of the persons identified on the application have been convicted, within ten (10) years prior to the filing of the application, of any felony, a crime of moral turpitude or a crime involving gambling.
 - 4.4.2 The degree to which the applicant has supplied accurate and complete information pursuant to the requirements of these rules.
 - 4.4.3 The extent to which the applicant has cooperated with the agency and the DGE in connection with the background investigation.
 - 4.4.4 Whether the person, or any of its officers, are known to associate with persons of nefarious backgrounds or disreputable character such that the association could adversely affect the general credibility, security, integrity, honesty, fairness or reputation of the lottery office.
 - 4.4.5 With respect to any past conduct which may adversely reflect upon the applicant, the nature of the conduct, the amount of time that has passed since the conduct, the frequency of the conduct and any extenuating circumstances that affect or reduce the impact of the conduct or otherwise reflect upon the applicant's fitness for the license.
 - 4.4.6 The extent, if any, to which the applicant has failed to comply with any applicable tax laws of the federal, state or local governments.
 - 4.4.7 Current prosecution for any offense listed in subsection 4.4.1; provided, however, that, at the request of the applicant, the Director shall defer his or her decision on the application during the pendency of the charge.
 - 4.4.8 Any other information before the Director, including substantially similar background investigations performed by other agencies or jurisdictions, which relates to the applicant's competency, financial capability, honesty, integrity, reputation, habits, or associations.

- 4.5 A license shall be issued to the applicant if the Director is satisfied, upon consideration of the factors specified in subsection 4.4, that the applicant would be a fit agent and not pose a threat to the public interest, the reputation of the lottery, or the effective control of the lottery.
- 4.6 Charitable gaming vendors shall have a valid license to conduct business in the State of Delaware, shall comply with all applicable tax provisions, and shall be qualified to conduct business in Delaware in all other respects.
- 4.7 Each charitable video lottery machine certified by the Director shall bear a unique serial number and shall conform to the machine model certified by the Director.
- 4.8 Charitable gaming vendors shall hold harmless the agency, the State of Delaware, and their respective officers and employees for any claims, loss, cost, damage, liability or expense, including, without limitation, legal expense arising out of any hardware or software malfunction resulting in the wrongful award or denial of credits or cash.
- 4.9 A charitable gaming vendor shall not distribute a charitable video lottery machine for placement in the state unless the charitable video lottery machine has been approved by the agency. Only charitable gaming vendors may apply for approval of a charitable video lottery machine or associated equipment.
- 4.10 The charitable gaming vendor is responsible for the assembly and initial operation, in the manner approved and licensed by the agency, of all of its charitable video lottery machines and associated equipment. The charitable gaming vendor may not change the assembly or operational functions of any of its charitable video lottery machines approved for placement in Delaware unless a "request for modification to an existing charitable video lottery machine prototype" is made to the agency. Such request must contain all appropriate information relating to the type of change, the reason for the change, and all supporting documentation that may be required. The agency must approve such request prior to any changes being made, and the agency reserves the right to require second testing of charitable video lottery machines after modifications have been made.
- 4.11 The following ongoing duties are required of all licensed charitable gaming vendors, without limitation:
 - 4.11.1 Promptly report to the agency any violation, or any facts or circumstances that may result in a violation, of state or federal law and/or any rules or regulations adopted pursuant thereto.
 - 4.11.2 Conduct charitable video lottery operations in a manner that does not pose a threat to the public health, safety, or welfare of the citizens of Delaware, or reflect adversely on the security or integrity of the lottery office.
 - 4.11.3 Hold the agency, the Director, the State of Delaware, and its officers and employees harmless from, and defend and pay for the defense of, any and all claims that may be asserted against the agency, the Director, the State of Delaware, and its officers and employees that may arise from the charitable gaming vendor's operation of a charitable video lottery machine, except claims arising from the negligence or willful misconduct of the agency, the Director, the State of Delaware, or its officers or employees.
 - 4.11.4 Maintain all records required to be kept by charitable gaming vendors according to Delaware laws and regulations as well as these rules and any federal laws or regulations.
 - 4.11.5 Notify the Director of any change in ownership. The failure of any new owner to satisfy a background investigation may constitute "cause" for the suspension or revocation of the license.
 - 4.11.6 Supervise its employees and their activities to ensure compliance with these rules.
 - 4.11.7 Comply with all legal requirements of Delaware law and federal laws, including, without limitation, statutes, regulations, orders, these rules, and all of the terms of any contractual agreements entered into with the agency as well as such other requirements as shall be specified by the Director.

5.0 Agents: Duties

- 5.1 The following ongoing duties are required of all licensed agents:
 - 5.1.1 Provide a secure location for the placement, operation, and play of all authorized charitable video lottery machines located on the licensed agent's premises.
 - 5.1.2 Permit no person to tamper with or interfere with the approved operation of any authorized charitable video lottery machine or other gaming equipment without prior written approval of the agency, unless otherwise directed by the lottery office.
 - 5.1.3 With respect to charitable video lottery operations, contract only with licensed charitable gaming vendors for the supply of charitable video lottery machines or associated equipment authorized by the agency to participate in charitable video lottery operations within the State of Delaware.

- 5.1.4 Ensure that no charitable video lottery machine or associated equipment or any other related accessory may be used in a charitable video lottery facility if the machine, equipment, or supplier of the machine or equipment has not been previously approved by the agency.
- 5.1.5 Ensure authorized charitable video lottery machines are placed and remain as placed, unless the agency authorizes their movement within the sight and control of the agent or a designated employee who is physically present at the time of movement.
- 5.1.6 Monitor players who use charitable video lottery machines and prevent access to, or use by:
 - 5.1.6.1 players who are under the age of twenty-one (21) years,
 - 5.1.6.2 players who are intoxicated, or
 - 5.1.6.3 players whom the agent has reason to believe are intoxicated.
- 5.1.7 Prohibit use of charitable video lottery machines by players who are barred by law or who self-barrred themselves from playing any charitable video lottery machine.
- 5.1.8 Commit no violations of the laws of this State concerning the sale, dispensing, and consumption on the premises of alcoholic beverages that result in suspension or revocation of an alcoholic beverage license.
- 5.1.9 Maintain at all times sufficient cash in denominations accepted by the charitable video lottery machines located on the premises.
- 5.1.10 Report promptly all charitable video lottery machine malfunctions to the appropriate charitable gaming vendor and agency and notify the agency of any failure of a charitable gaming vendor to provide service and repair of such charitable video lottery machines and associated equipment.
- 5.1.11 Assume responsibility for the proper and timely payment to players of cash or credits awarded.
- 5.1.12 Prohibit the possession, use or control of gambling paraphernalia on the premises which is not directly related to the agent's charitable video lottery operations and prohibit illegal gambling on the premises.
- 5.1.13 Attend all meetings, seminars, and training sessions required by the agency.
- 5.1.14 Supervise its employees and their activities to ensure compliance with these rules.
- 5.1.15 Assume responsibility for the proper and immediate redemption of all credits; however, no credits may be redeemed by an individual under the age of twenty-one (21) years. No credits or prizes may be redeemed by or for any individual who is illegally on the agent's premises or individuals who have requested that they be self-banned from the agent's premises.
- 5.1.16 Provide dedicated power and a proper charitable video lottery machine environment in accordance with the specifications of the agency.
- 5.1.17 Immediately report to the agency any violation, or any facts or circumstances that may result in a violation, of state or federal law and/or any rules or regulations pursuant thereto by the agent, its employees, or anyone acting on behalf of the agent, excluding violations concerning motor vehicle laws.
- 5.1.18 Conduct charitable video lottery operations in a manner that does not pose a threat to the public health, safety, or welfare of the citizens of Delaware, or reflect adversely on the security or integrity of the lottery office.
- 5.1.19 Hold the agency, the Director, the State of Delaware, and its officers and employees harmless from, and defend and pay for the defense of, any and all claims that may be asserted against the agency, the Director, the State of Delaware, and its officers and employees that may arise from the agent's participation in or the operation of a charitable video lottery machine, except claims arising from the negligence or willful misconduct of the agency, the Director, the State of Delaware, or its officers or employees.
- 5.1.20 Maintain all records required to be kept by agents according to Delaware laws and regulations as well as these rules and all federal laws and regulations.
- 5.1.21 Provide at the request of the Director or the DGE immediate access to the premises and to all records related to any aspect of these rules.
- 5.1.22 Keep current on all payments, tax obligations and other obligations to the agency and other licensees with whom charitable video lottery business is conducted. The agent shall pay the players and transfer the net charitable video lottery game proceeds to the agency in conformity with the requirements set forth in these rules and 29 **Del.C.** Ch. 48.
- 5.1.23 Comply with such other requirements as shall be specified by the Director.
- 5.1.24 Notify the Director on a continuing basis of any change in officers assuming responsibility of the agent.
- 5.1.25 Comply with all requests for a background investigation. The failure of any officer of the agent to satisfy a background investigation may constitute "cause" for the suspension or revocation of the agent's license; provided, however, that the agency will first give an agent a reasonable opportunity to remove or replace such individual if the agent was unaware of such "cause" prior to the background investigation.

- 5.1.26 Comply on a continuing basis with the requirements for obtaining or retaining a license under the provisions of these rules and 29 **Del.C.** Ch. 48.
- 5.1.27 Immediately notify the DGE and the agency about, and submit any evidence of, any charitable video lottery machine or related equipment which has been, or there is reasonable suspicion that it may have been, tampered with or altered in such a way that the integrity or conformity of the charitable video lottery machine or related equipment may have been affected.
 - 5.1.27.1 Any agent who has retained any charitable video lottery machine or related equipment under a reasonable suspicion that said machine or equipment was tampered with or altered, or who has retained any equipment or device of those specified in these rules under a reasonable suspicion that said equipment or device was introduced or was used or intended to be used in the charitable video lottery facility in violation of the law or these rules, shall keep said machine, equipment, or device in the state in which it was found when it was retained and shall deliver said machine, equipment or device to a representative of the DGE as soon as possible.
 - 5.1.27.2 Any agent who has retained any charitable video lottery machine or related equipment or other devices as set forth in subsection 5.1.27.1 shall be responsible for ensuring that any such machine, equipment or other device, and any evidence related to the same which should be submitted to the DGE, is maintained in a secure manner until the arrival of an authorized representative of the DGE.
- 5.1.28 Immediately notify the DGE about any illegal or suspicious activities that occur or are occurring in the agent's charitable video lottery facility or premises that relate to the safety, security or gaming operations of the facility or premises. An agent shall also immediately notify the DGE of any illegal or suspicious activities that occur outside of the charitable video lottery facility or premises that relate to the safety, security or gaming operations of the charitable video lottery facility or premises.
- 5.1.29 Immediately notify the DGE if anyone acting on behalf of the agent physically detains a person suspected of a violation of 11 **Del.C.** §1471.
- 5.1.30 Annually submit to the agency the following items by the due dates set forth below:
 - 5.1.30.1 By February 28 of each year, a membership affidavit form, which the agency will provide to the charitable video lottery agent, that lists the total number of the agent's active members. This affidavit is required only for those charitable video lottery agents that wish to operate more than the minimum 10 charitable video lottery machines. The agent must ensure that the membership affidavit form has been notarized by a notary public;
 - 5.1.30.2 By March 31 of each year, a charitable donations report form, which the agency will provide to the charitable video lottery agent, that lists the agent's charitable donations for the preceding calendar year; and
 - 5.1.30.3 Between December 1 and December 31 of each year, a written confirmation that the charitable video lottery agent has registered with the U.S. Department of Justice, which confirmation may be forwarded to the agency by electronic mail.

6.0 Game Requirements

- 6.1 Each charitable video lottery machine shall display the amount wagered and the amount awarded for each possible winning occurrence based on the number of credits wagered.
- 6.2 Each player shall be at least twenty-one (21) years of age. If an underage player attempts to claim a prize, the charitable video lottery agent shall treat the play of the game as void, and the underage player will not be entitled to any prize won or a refund of amounts bet. If an individual illegally on the premises or a self-barred individual attempts to claim a prize, the agent shall also treat the play of the game as void, and the individual shall not be entitled to any prize won or a refund of amounts bet.
- 6.3 No individual may play or attempt to play credits on a charitable video lottery machine that were won by another player on that machine and inadvertently or accidentally left on the machine by the original player. Any such play of another player's credits shall be treated as void, and the individual who plays another player's credits that were accidentally left on the machine shall not be entitled to any prize won or a refund.
- 6.4 No agent shall make a payment for a credit slip or a prize claim form for a prize awarded on a charitable video lottery machine unless the credit slip:
 - 6.4.1 Is presented on a fully legible, valid, and printed credit slip on paper approved by the agency;
 - 6.4.2 Is not mutilated, altered, unreadable, or tampered with in any manner, and no one else has previously been paid for the same credit slip;
 - 6.4.3 Is not counterfeit in whole or in part; and
 - 6.4.4 Is presented by an individual authorized to play on a charitable video lottery machine.

- 6.5 The management of each agent shall designate employees who will be authorized to redeem credit slips during the agent's hours of operation. Credits shall be immediately paid in cash or by check when a player presents a credit slip for payment that meets the requirements of this section.
- 6.6 Agents may redeem credit slips only for credits awarded on charitable video lottery machines located on its premises. The agency and the State of Delaware are not liable for the payment of any credits on any credit slips.
- 6.7 All credit slips redeemed by an agent shall be marked or defaced in a manner that prevents any subsequent presentment and payment.
- 6.8 The agency and the State of Delaware are not responsible for any malfunction of any charitable video lottery machine or for any error by the agent that causes credit to be wrongfully awarded or denied to players.

7.0 Accounting and Distribution Procedures; Forms, Records, and Documents

- 7.1 Each agent and charitable gaming vendor shall submit to the Director such financial and operating information as the Director shall require and at such times and in such format as the Director shall specify.
- 7.2 The agency may periodically prescribe a set of standard reporting forms and instructions to be used by each agent for filing reports.
- 7.3 The agency or its designated delegates shall have the right to audit the agent's books and records including, without limitation, tax returns and IRS withholding and reporting records of any agent and each charitable gaming vendor. To such end, the agents and charitable gaming vendors shall fully cooperate with whomever undertakes the audit.
- 7.4 The net charitable video lottery game proceeds returned to the State shall be remitted weekly, bi-weekly or monthly to the agency at the discretion of the Director through the electronic transfer of funds to an EFT account. To the extent, if any, that such weekly, bi-weekly or monthly remission cannot be achieved due to the unavailability of bank services, the remission shall be made on the first day that such services are available. Agents shall furnish to the agency all information and bank authorizations required to facilitate the timely transfer of monies to the agency. Agents shall provide the agency thirty (30) days advance written notice of any proposed account changes in order to assure the uninterrupted electronic transfer of funds.
- 7.5 The agency is not responsible for resolving discrepancies caused by differences between actual money collected and the amount shown on the accounting meters or billing statement. Further, the agency is not responsible for the loss or theft of money prior to its deposit in the agency's account in the bank.
- 7.6 Agents shall comply with all prescribed federal requirements for tax withholding, recording and reporting, including, without limitation, those requirements relating to the transfer of funds withheld from player winnings from the agents to the tax authorities.
- 7.7 Any discrepancy regarding settlement of accounts will be resolved by the Director as he or she deems appropriate.
- 7.8 All information required to be placed on any form, record, or document shall be recorded on such form, record, or document in ink or other permanent form.
- 7.9 Each agent shall maintain complete, accurate, and legible records of all transactions pertaining to revenue and gaming activities. Each agent shall maintain detailed, supporting, subsidiary records sufficient to meet financial reporting requirements prescribed by the Director. Each agent shall also establish an inventory system of retained financial documents that facilitates their preservation and makes them readily available for review or copying by regulatory authorities and other authorized individuals or groups and also provides procedures for destruction.

8.0 Maintenance of Charitable Video Lottery Machines

- 8.1 No charitable video lottery machine may be placed in operation in Delaware until the agent has provided its personnel with sufficient and appropriate training in the service and repair of each model of its approved charitable video lottery machines.
- 8.2 Each charitable gaming vendor shall service and maintain its charitable video lottery machines, the software for such machines, and any associated equipment in the manner and condition required by the agency and in accordance with its contractual arrangements.
- 8.3 A MEAL book shall be kept within the main cabinet access area in each charitable video lottery machine. Every person, including agency personnel, who gains entry into any internal space of a charitable video lottery machine shall sign the MEAL book, indicate the time and date of entry, and the reason for entry. The MEAL books shall be retained by the agents for a period of three years from the date of the last entry. The MEAL books shall be made available upon request for inspection by the agency.

- 8.4 Charitable gaming vendors shall provide the agency or its designee upon request with a master key for access into each locked compartment of each charitable video lottery machine placed in operation (i.e., cash box, main cabinet, logic box, etc.).

9.0 Transportation, Registration, and Location of Charitable Video Lottery Machines

- 9.1 No person shall ship or transport a charitable video lottery machine into or out of the State without first obtaining a written authorization for such transport from the Director or designee. An owner of a charitable video lottery machine or a licensed charitable gaming vendor may arrange for the transportation of a charitable video lottery machine within the State of Delaware only with the concurrence of the Director. No owners or licensed charitable gaming vendors may authorize the transportation of any charitable video lottery machines at any time without agency approval. Any person transporting a charitable video lottery machine from one location to another within the State shall notify the agency in writing prior to the transportation of said machine.
- 9.2 Requests to transport charitable video lottery machines must include, on a form provided by the agency, the following information:
- 9.2.1 The full name and address of the person who is requesting the transportation of the charitable video lottery machine and the method of transportation, including the full name and address of any shipping company, if applicable);
 - 9.2.2 The reason for transporting the charitable video lottery machine;
 - 9.2.3 The full name and address of the owner of the charitable video lottery machine and the address of where the charitable video lottery machine is currently located;
 - 9.2.4 The full name and address of the person to whom the charitable video lottery machine is being sent and the destination of the charitable video lottery machine, if different from the recipient's address;
 - 9.2.5 The total number of machines being transported along with each charitable video lottery machine's serial and model numbers (if applicable).
 - 9.2.6 The manufacturer of the charitable video lottery machine; and
 - 9.2.7 The expected transportation date and delivery date and time of installation of the charitable video lottery machine.
- 9.3 If the charitable video lottery machine will not be placed in operation, the charitable gaming vendor shall notify the agency of the address where said terminal is to be warehoused or otherwise kept. Prior to use, the storage facility may be inspected and approved for charitable video lottery machine storage by the agency.
- 9.4 Project Request Form
- 9.4.1 An agent or licensed charitable gaming vendor must complete and submit to the lottery office a project request form whenever an agent or licensed charitable gaming vendor seeks approval for the movement of charitable video lottery machines or for other modifications or changes to charitable video lottery machines and other related equipment.
 - 9.4.2 A project request form must be submitted to the lottery office whenever an agent or charitable gaming vendor seeks:
 - 9.4.2.1 to move or modify a charitable video lottery machine on the premises of the agent;
 - 9.4.2.2 to convert a game theme on a charitable video lottery machine;
 - 9.4.2.3 to convert the play denomination on a charitable video lottery machine;
 - 9.4.2.4 to change the percentage payout on a charitable video lottery machine;
 - 9.4.2.5 to change any software on a charitable video lottery machine;
 - 9.4.2.6 to change the jackpot lockup amount on a charitable video lottery machine;
 - 9.4.2.7 to change the configuration of a charitable video lottery machine;
 - 9.4.2.8 to perform a wholesale replacement of parts of a charitable video lottery machine; or
 - 9.4.2.9 to make any type of adjustment to mechanical or electronic meters.
 - 9.4.3 No project is considered approved until the lottery office has signed the project request form and distributed copies of the completed form to the appropriate parties. The lottery office will strictly enforce the approved start and end time on the project request form. No agent or licensed charitable gaming vendor will be permitted under any circumstances to shut down or otherwise modify any charitable video lottery machine prior to the approved start time or after the approved end time listed on a project request form without written approval from the lottery office.
 - 9.4.4 An agent or a licensed charitable gaming vendor must notify the lottery office if the agent or licensed charitable gaming vendor cancels any project or fails to complete any project as stated on a submitted project request form.

10.0 Enforcement and Hearings

- 10.1 The Director shall not deny any license to an applicant or refuse to renew, suspend, or revoke any license of a licensee unless he or she has afforded the applicant or licensee an opportunity for a hearing on an appeal for reconsideration before the Lottery Commission.
- 10.2 If the Director determines that an applicant has failed to satisfy the requirements for the granting of a license or that a licensee has failed to continue to satisfy the requirements for the retention of a license, he or she shall serve the applicant a written notice of an intent to deny the application or shall serve the licensee a written notice of an intent to suspend or revoke the license. The written notice must include the reasons for the intended denial, suspension, or revocation and must advise the applicant or licensee of the right to request a hearing on an appeal for reconsideration before the Lottery Commission.
- 10.3 An applicant or licensee who has received a notice of intent to deny, suspend, or revoke an application or license shall have an opportunity to request a hearing on an appeal for reconsideration before the Lottery Commission within thirty (30) days of receipt of the written notice.
- 10.4 If an applicant or licensee desires a hearing, it shall provide the Lottery Commission and the Director with a written statement within thirty (30) days of receipt of the notice. The written statement must contain the following:
 - 10.4.1 A clear and concise statement indicating the reasons for appealing the decision of the Director;
 - 10.4.2 A notarized verification by the applicant or the licensee that the information provided is true and accurate; and
 - 10.4.3 The signature of the applicant or the licensee.
- 10.5 If an applicant or licensee fails to timely file an appeal for reconsideration or withdraws the appeal for reconsideration, the Director shall determine that the applicant or licensee has waived its right to a hearing and that the applicant or licensee has admitted to all of the allegations of fact set forth in the Director's notice of intent to deny, suspend, or revoke the license. The Director shall then take final action, including denying, suspending, or revoking the license.
- 10.6 The appeal for reconsideration shall be heard by the Lottery Commission. The hearing shall be conducted within thirty (30) days of the receipt of the letter of appeal unless extenuating circumstances require a longer period.
- 10.7 The Lottery Commission shall provide written notice of the hearing to the parties at least twenty (20) days before the date on which the hearing is to be held.
- 10.8 At the hearing, the Director or his or her designee shall be responsible for presenting to the Lottery Commission the reasons in support of his or her determination, which may include presenting witnesses, introducing any relevant evidence, and making any necessary arguments.
- 10.9 If the parties agree to a settlement prior to the conclusion of the hearing, the parties shall submit a signed stipulation to the Lottery Commission. The Lottery Commission shall then schedule a review of the settlement at a public meeting at which time the Lottery Commission shall:
 - 10.9.1 Approve the settlement;
 - 10.9.2 Approve the settlement as modified by the Lottery Commission with the consent of the parties;
 - 10.9.3 Reject the settlement and schedule the matter for further proceedings; or
 - 10.9.4 Take such action as the Lottery Commission deems appropriate.
- 10.10 The Lottery Commission may not approve any settlement unless the settlement is voluntary, consistent with the law, and fully dispositive of all of the issues in controversy.
- 10.11 Once the Lottery Commission approves an executed settlement, the settlement will be considered both a withdrawal of the appeal for reconsideration and evidence of the parties' informed consent to such final Lottery Commission action.
- 10.12 The applicant or licensee may appear individually or by legal counsel.
- 10.13 With the approval of the Lottery Commission, the applicant, licensee, or the legal counsel of the applicant or licensee may waive the hearing and agree to submit the case for decision on the record, with or without a written brief. Such a waiver or agreement must be in writing and placed in the record.
- 10.14 The applicant or licensee shall be given an opportunity for argument within the time limits fixed by the Lottery Commission following submission of the evidence. The Lottery Commission, upon request of the applicant or licensee, may accept briefs in lieu of argument. The briefs shall be filed within ten (10) days after the hearing date or within such other time as fixed by the Lottery Commission.

- 10.15 The Lottery Commission may admit any relevant evidence, except that it shall observe the rules of privilege recognized by law. The Lottery Commission may exclude any evidence which is irrelevant, unduly repetitious, or lacking a substantial probative effect.
- 10.16 A written record made by a court reporter must be made of all hearings, and all witnesses shall be sworn and subject to cross examination.
- 10.17 An applicant or licensee shall have the affirmative obligation to establish by clear and convincing evidence that the Director's determination was in error under the criteria for licensing established by Delaware law.
- 10.18 The Lottery Commission shall render a written decision via an order that sets forth its findings of fact, conclusions of law, and recommendation within 45 days of the date of the hearing, unless extenuating circumstances require a longer period of time. All orders and decisions made by the Lottery Commission under this appeal procedure are final once signed by the required number of Lottery Commission members.
- 10.19 The Lottery Commission shall submit to the Director a copy of its written decision and order and shall serve the applicant or licensee and any attorney of record with its written decision and order, either in person or by registered or certified mail.
- 10.20 A person aggrieved by a final decision or order of the Lottery Commission may obtain judicial review by appeal to the Superior Court pursuant to 29 **Del.C.** §10142. The filing of an appeal shall not stay enforcement of the decision or order of the Lottery Commission unless a stay is obtained from the court upon application in accordance with the rules of court.
- 10.21 An applicant or licensee whose license has been revoked or whose application for a license has been denied shall be prohibited from reapplying for any license for a period of five (5) years from the date of the order denying or revoking the license.
- 10.22 Any money or thing of value which has been obtained by any person prohibited from gaming activity in a charitable video lottery facility shall be subject to an order of forfeiture by the Director, following notice to the prohibited person and an opportunity for the prohibited person to file an appeal for reconsideration by the Lottery Commission in accordance with the procedures set forth in this Section 10.0.

11.0 Key Controls

- 11.1 Any key that is considered sensitive and is required to be controlled and maintained by these rules and any corresponding locking device shall be approved by the agency. Such keys shall be legally duplicated only by the manufacturer or other approved entity and shall be capable of unlocking the locking device on no more than one type of secure box, compartment or location used or maintained within the charitable video lottery facility. Nothing herein shall preclude the agency from exempting a type of secure box, compartment or location from the requirements of this subsection upon a determination that the security of such box, compartment or location would not otherwise be compromised.
- 11.2 The agent shall establish key control for any sensitive key. Such procedures shall provide for, at a minimum, the following:
 - 11.2.1 The requisitioning of keys and locking devices from vendors, blank stock, and destruction; and
 - 11.2.2 The security and restrictions which control access to keys, whether manually or through an electronic system, and records and reports generated or prepared.

12.0 Bank Secrecy Act, Title 31, Anti-Money Laundering

Consistent with the requirements of the federal Bank Secrecy Act, (31 U.S.C. §5311, et seq.) and regulations promulgated thereunder, each agent shall comply with federal law pertaining to reportable currency transactions and transactions that are believed to be suspicious.

13.0 Severability

The sections and subsections of these rules will be deemed severable. If a judicial opinion or legislative enactment causes any section or subsection to be deemed as invalid, unconstitutional, or in any manner contrary to the laws of the State of Delaware, then such opinion or enactment shall invalidate only that particular section or subsection of these rules. All other sections shall remain in full force and effect.

22 DE Reg. 163 (08/01/18)

27 DE Reg. 679 (03/01/24) (Final)