

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

Statutory Authority: 29 Delaware Code, Sections 4805(a) and 10003 (29 **Del.C.** §§4805(a) and 10003)  
10 **DE Admin. Code** 202

**FINAL**

**ORDER**

**202 Delaware Lottery Rules and Regulations**

**Policies and Procedures Regarding FOIA Requests**

AND NOW, this 1st day of November, 2016, in accordance with 29 **Del. C.** §§4805(a) and 10003, and for the reasons stated below, this ORDER is adopted to amend Section 28 of the Office of the State Lottery's regulations on the policies and procedures regarding Delaware Freedom of Information (FOIA) requests as set forth in its existing regulations, 10 **DE Admin. Code** 202-28.0.

**NATURE OF PROCEEDINGS**

On October 20, 2011, the Governor of the State of Delaware signed Executive Order Number 31, which directed each executive branch agency to implement and promulgate uniform Freedom of Information Act policies that are substantially compliant with the form attached to the Executive Order. On December 1, 2011, the Secretary of the Department of Finance issued a final order which promulgated regulations setting forth the policies and procedures regarding FOIA requests. Under 29 **Del.C.** §4802, the State Lottery Office exists as part of the Department of Finance. Hence, the regulations issued by the Department of Finance provide the FOIA policies and procedures for the Office of the State Lottery.

Pursuant to 29 **Del.C.** §10113(b)(1), regulations describing an agency's procedures for obtaining information are exempted from the notice and public comment requirements of 29 **Del.C.** Ch. 101.

In order to comply with 29 **Del. C.** §10003, and based on the authority of the Director of the Office of the State Lottery to make non-substantive changes to regulations to make them consistent with changes in law, the Director is adopting final changes to its regulations governing the policies and procedures regarding FOIA requests. Pursuant to 29 **Del.C.** §10113(b)(5), such changes are exempt from the notice and public comment requirements of 29 **Del.C.** Ch. 101.

The Office of the State Lottery follows the FOIA policy and procedures set forth in 8 **DE Admin. Code** 500. Hence, Section 28 of 10 **DE Admin. Code** 202 is hereby amended to rescind and remove Section 28 in its entirety.

**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, amended 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).

Vernon A. Kirk, Director  
Office of the State Lottery

**202 Delaware Lottery Rules and Regulations**

**1.0 Definitions**

**“Act” or “Law”** means the Delaware State Lottery Law, Chapter 348, Volume 59, of the Laws of Delaware, as may be amended from time to time.

**“Bank”** means and includes all banks, banking associations, and trust companies organized under the authority of this State or the United State whose principal place of business is within the State.

**“Director”** means the Director of the State Lottery Office or Acting Director as stipulated in the Act.

**“Licensee” or “Agent”** means a person who has been licensed to sell lottery tickets.

**“Lottery” or “State Lottery”** means the lottery established and operated pursuant to the Act.

**“Lottery Property”** means and includes but is not limited to any Agent’s License, unsold tickets, forms, promotional materials or any other tool issued to the agent by the State Lottery Office for the purpose of selling tickets.

**“Office” or “Lottery Office”** means the State Lottery Office created in the Act.

**“Person”** means and includes an individual, association, corporation, club, trust, estate, society, company, joint stock company, receiver, trustee, assignee, referee, or any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals. “Person” shall also mean and include all departments, commissions, agencies, and instrumentalities of the State, including counties and municipalities and agencies and instrumentalities thereof.

**“Regulations”** means the regulations promulgated by the Lottery Office for the operation of the lottery.

**“Ticket”** means a lottery ticket issued by the State Lottery Office for sale to the general public.

## **2.0 Director**

The Director shall have the power, duties and responsibilities as set out in the enabling legislation, Chapter 348, Volume 59, Laws of Delaware, and any subsequent amendments.

## **3.0 Licensing of Agents**

- 3.1 Application. Any person interested in obtaining a license as an Agent must first file an “Application for Lottery Sales Agent’s License” with the Director of the State Lottery Office. The applications, as well as other documents submitted to the Lottery on behalf of the applicant for purposes of determining the qualifications of the applicant, shall be sworn to or affirmed before a notary public, or designated Lottery employee.
- 3.2 Eligibility for License. No license as an Agent to sell lottery tickets shall be issued to any person to engage in business primarily as a lottery sales Agent. Before issuing such license, the Director shall consider such factors, including but not limited to:
  - 3.2.1 The financial responsibility and security of the person and his business activity. The applicant must be willing to grant to the Lottery the right to perform a routine credit check such as any other supplier might require before extending credit. He or she must also be willing to grant to the Lottery the right to perform a security investigation to include the release of any criminal history by the State Bureau of Identification and the Federal Bureau of Identification.
  - 3.2.2 The honesty and integrity of the applicant.
  - 3.2.3 The accessibility of his place of business or activity to the public.
  - 3.2.4 The sufficiency of existing licensees to serve the public convenience.
  - 3.2.5 The volume of expected sales.
  - 3.2.6 The veracity of the information supplied in the “Application for Lottery Sales Agent’s License”.
  - 3.2.7 The results of the applicant’s state and federal criminal history record check.
  - 3.2.8 The extent to which the applicant is 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.
- 3.3 Ineligibility of Minors. No person under the age of twenty-one (21) shall be licensed as an Agent. Nothing herein shall be construed to mean an employee must be twenty-one (21) to sell tickets within the licensed establishment.
- 3.4 Issuance of License
  - 3.4.1 The Director shall, in accordance with the provisions of the Act and these Regulations, license such persons as Agents to sell lottery tickets who, as in his option, will best serve the public convenience and promote the sale of tickets.
  - 3.4.2 The issuance of a license shall signify agreement by the agent to abide by all provisions of the Lottery regulations.
  - 3.4.3 An Agent’s license shall be reviewed annually on or about the anniversary date of the original permanent issue.
  - 3.4.4 The Director reserves the right to require a surety bond from every licensed Agent in such amount consistent with his determination of the financial stability of said Agent so as to avoid any monetary loss to the State because of the Agent’s activities in the sale of lottery tickets.
- 3.5 License to be Displayed
  - 3.5.1 Every Agent shall prominently display his license in an area visible to the general public.
  - 3.5.2 In addition, the Agent decal shall mounted on a prominent public window of the Agent’s premises.

- 3.5.3 The Agent shall maintain and display all promotional material in conjunction with ticket sales in accordance with instructions issued by the Lottery Office.
- 3.6 Sale of Lottery Tickets at Specific Locations, Licensed and Nontransferability
  - 3.6.1 The sale of lottery tickets shall be made only pursuant to a lottery Agent's license at a specific location named therein.
  - 3.6.2 No other sales shall be permitted, except as provided in the Act or these Regulations.
- 3.7 Sale and/or Transfer of Ownership of Specific Licensed Locations
  - 3.7.1 All licensed agents are required to notify the Lottery Office of a pending sale of a specific licensed location. This requirement of notice includes ownership change in corporations as well as individual ownership change affecting a specific licensed location. No license may be transferred, assigned, or pledged as collateral. All licenses to sell Lottery tickets are nontransferable.
  - 3.7.2 Any change in ownership of a specific licensed location requires a new Agent Application process. Change of ownership does not automatically guarantee the granting of a License to the new ownership. In the event of the death of a licensee, the Lottery will suspend operations at the Agent's location if and until a new Agent Application is approved for that location.
- 3.8 Liability of Lottery Office and State of Delaware. It is agreed by the Agent that he shall hold the Lottery Office, all Lottery employees, and the State of Delaware harmless from any liability arising in connection with conducting lottery ticket sales.

#### **4.0 Revocation of Licenses**

- 4.1 The license is evidence of an agency revocable at will by the Director. The Director may revoke without notice or a hearing, the license of any Agent who violates the Act or any rule or regulation promulgated pursuant to the Act. However, if the Director does revoke a license without notice and an opportunity for a hearing, the Director shall by appropriate notice afford the person whose license has been revoked an opportunity for a hearing within thirty (30) days after the revocation order has been issued. The notice shall also specify the intended reasons for the revocation. As a result of any such hearing, the Director may confirm his action revoking the license or he may order the restoration of such license.
- 4.2 An Agent's license may be suspended, revoked, or its renewal rejected for any one or more of the following reasons:
  - 4.2.1 Whenever the Agent knowingly uses false or misleading information in obtaining the license.
  - 4.2.2 Whenever the Agent violates any of the provisions of the State Lottery Law or any regulations, directives, or instructions promulgated or issued thereunder.
  - 4.2.3 Whenever the Agent's business address is changed.
  - 4.2.4 Whenever the Agent does not display lottery point-of-sale material in a manner which is readily seen by and available to the public, including failure to make tickets available at points-of-sale within the licensed premises which the Director determines are necessary to the interest of the public and the lottery.
  - 4.2.5 Whenever a Agent commits an act which seriously impairs his reputation for honesty and integrity.
  - 4.2.6 Whenever the Agent has been convicted of a crime.
  - 4.2.7 Whenever the Agent has been found guilty of any fraud or misrepresentation in any connection.
  - 4.2.8 Whenever the Agent's experience, character, and general fitness are such that his participation as a lottery sales Agent is inconsistent with the public interest, convenience and necessity, or the security of the Lottery operations.
  - 4.2.9 Whenever the Agent is delinquent in making required accounting or fails to pay weekly all monies owed to the State.
  - 4.2.10 Whenever the Agent fails to take reasonable security precautions with regard to the handling of lottery tickets and other materials.
  - 4.2.11 Whenever the Agent sells a lottery ticket for an amount less than or greater than its stated price.
  - 4.2.12 Whenever the Agent fails to report information required by these regulations.
  - 4.2.13 Whenever the Agent sells lottery tickets to known third-party ticket resalers or enters computer-generated betting slips from third-party ticket resalers for the sale of lottery tickets.
- 4.3 Procedure for Revocation or Rejection of Renewal of License
  - 4.3.1 The Director may, for any of the reasons stated above, revoke or reject the renewal of an Agent's license.
  - 4.3.2 Immediately upon notice of revocation or rejection of renewal of an Agent's license, said Agent shall suspend the sale of all lottery tickets and shall forthwith comply with the provisions of these Regulations for procedures upon suspension of license, unless otherwise notified by the Director.

## **5.0 Procedure Upon Suspension or Revocation of License**

- 5.1 The license of any Agent may be temporarily suspended by the Director without prior notice, or having a hearing, pending further investigation, settlement of delinquent account, or prosecution.
- 5.2 Upon suspension or revocation of an Agent's license for any reason whatsoever, the Agent shall meet with the Director or his designee on a date set by the Director for the purpose of rendering his final lottery accounting. This date shall be not more than seven (7) days from the date the notice of suspension or revocation was received by the Agent. Upon the Agent's failure to meet with the Director or his designee on or before the date set by the Director, the Director may take steps to impose such penalties and to enforce the powers of his Office against the delinquent Agent, his agents, or representatives, as may be provided by law and these Regulations.
- 5.3 Upon receipt of notice of suspension, revocation, or rejection, the Agent may within fourteen (14) days of receipt of said notice make written request to the Director for a hearing to show cause why his license should not be revoked. The written request must contain:
  - 5.3.1 A clear and concise assignment of each error which the licensee alleges to have been committed in the tentative determination to suspend or revoke the license. Each assignment of error should be listed in a separately numbered paragraph.
  - 5.3.2 A clear and concise statement of the facts on which the licensee relies in support of each assignment of error.
  - 5.3.3 A prayer setting forth the relief sought.
  - 5.3.4 The signature of the licensee or an officer authorized to request the hearing.
  - 5.3.5 A verification by the licensee or counsel for the licensee that the statements contained in the petition are true.

The Director shall provide an opportunity for the petitioner to be heard within thirty (30) days of receipt of the request for a hearing.
- 5.4 The Director may appoint a hearing officer within a reasonable time for the purpose of hearing suspension or revocation cases. Said officer shall hear the case, and within thirty (30) days of the conclusion of said hearing, submit to the Director with a copy to the parties of record, a recommended report. Said report shall contain findings of facts and conclusions of law to support a recommendation to support the revocation, suspension, or rejection, or to support the relicensing of the Agent involved. The parties of record upon receipt of their copy of the recommended report shall have ten (10) days in which to file exceptions, objections and replies to the Director. The Director, within fourteen (14) days, will advise the Agent of his final decision. The Director's decision shall be final.
- 5.5 The licensee may appear individually, by legal counsel, or by any other duly authorized representative. In the absence of the licensee, written evidence of a representative's authority shall be presented to the hearing officer in a form satisfactory to the hearing officer.
- 5.6 The licensee or his duly authorized representative, may, with the approval of a hearing officer, 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 shall be in writing and placed in the record.
- 5.7 The licensee shall be given the opportunity for argument within the time limits fixed by the hearing officer following submission of the evidence. The hearing officer, upon request of licensee, may accept briefs in lieu of argument. The briefs shall be filed within ten days after the hearing date or within such time as fixed by the hearing officer.
- 5.8 The hearing officer may admit any relevant evidence, except that he shall observe the rules of privilege recognized by law. The hearing officer may exclude any evidence which is irrelevant, unduly repetitious, or lacking a substantial probative effect.
- 5.9 A record shall be made of all hearings and all witnesses shall be sworn and subject to cross examination.

## **6.0 Erroneous or Mutilated Tickets**

Unless the Director is satisfied that a mutilated lottery ticket is genuine, no credit or prize will be issued to the holder of said ticket. Tickets misprinted due to machine error shall be returned to the Lottery and the Agent's account shall be credited. If a ticket misprinted due to machine error (as determined by Lottery internal procedures) has been sold, the ticket holder shall be reimbursed for the cost of the ticket. Such tickets shall not be eligible for any prize. The Director may require Agents to comply with such directives as he deems necessary for erroneous or mutilated tickets received by an Agent.

## **7.0 Agent's Compensation**

All licensed Agents shall be entitled to a commission of a percentage of the price of each ticket sold by them as provided by the Director. In addition, each Agent shall be entitled to such bonus(es) as may be deemed desirable by the Director.

## **8.0 Special Agent Licensing**

- 8.1 The Director may license special lottery Agents, subject to such conditions or limitations as the Director may deem prudent and which is consistent with the laws of the State of Delaware and these Regulations. These limitations or conditions may include, but are not limited to:
  - 8.1.1 Length of license period.
  - 8.1.2 Hours or day of sale.
  - 8.1.3 Location of sale.
  - 8.1.4 Specific persons who are allowed to sell lottery tickets.
  - 8.1.5 Specific sporting, charitable, social, or other special events where lottery tickets may be sold if in conformity with law.
- 8.2 Special licensed Agents will be subject to these Regulations.

## **9.0 Obligations of Licensed Retailers**

- 9.1 Each Agent accepts and assumes the following obligations and responsibilities when he accepts a license to sell lottery tickets:
  - 9.1.1 Each agent shall deposit all proceeds resulting from his sales of lottery tickets into a specified lottery bank account.
  - 9.1.2 Each Agent should make available at all lawful times during his normal business hours lottery tickets for sale to the public in the place of business designated in the license.
  - 9.1.3 Each Agent shall abide by the law, these Regulations and all other directives or instructions issued by the Director.
  - 9.1.4 Each Agent grants to the Lottery Office, and its Agents and representatives, an irrevocable license to enter upon the premises listed as location(s) on the Agent's license in which tickets may be sold or any other location under the control of the Agent where the Director may have good cause to believe lottery materials or tickets are stored or kept in order to inspect said lottery property and the premises.
  - 9.1.5 All property given to an Agent remains the property of the Lottery Office, and upon demand, the Agent agrees to deliver forthwith same to the Director.
  - 9.1.6 All books and records pertaining to the Agent's lottery activities shall be made available for inspection and/or audit at reasonable hours, upon demand, to the Director.
  - 9.1.7 No Agent shall advertise or otherwise display advertising in any part of the Agent's licensed location which may be considered derogatory or adverse to the operation or dignity of the Lottery and the Agent shall remove same forthwith if requested by the Director or his representative.
  - 9.1.8 Each licensee shall accept full responsibility for the acts and conduct of his employees, agents and representatives in connection with all activities of the Lottery Office, and shall hold the Lottery harmless.
  - 9.1.9 Each Agent is required to sell a minimum number of tickets as determined by the Director.
  - 9.1.10 Each Agent is required to make available official game rules applying to any specific game to any player desiring to inspect same.
  - 9.1.11 Each Agent shall report promptly any violation or any facts or circumstances that may result in a violation of these regulations, or in a violation of State or Federal law, excluding violations concerning motor vehicle laws.
  - 9.1.12 Each Agent shall conduct 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.

## **10.0 Lottery Accounts**

- 10.1 The Director may, in his discretion, require any or all lottery sales Agents to deposit to the credit of the State Lottery Fund, in banks designated by the Director, all monies received by such Agents from the sale of Lottery tickets, and to file with the Director or his designated agent, reports of their receipts and transactions in the sale of lottery tickets in such form and containing such information as he may require.

- 10.2 The Director may make such arrangements for any person, including a bank, to perform such functions, activities, or services in connection with the operation of the Lottery as he may deem advisable pursuant to the Act and these Regulations, and such functions, activities, and services of such person.
- 10.3 All deposits shall be secured in accordance with applicable State and Federal laws.

#### **11.0 Lottery Tickets**

- 11.1 Lottery tickets shall be prepared for sale and allocated to the Agent by the Lottery Office.
- 11.2 Tickets which are not accounted for by an Agent on the settlement date and within the time period designated by the Director, regardless of the reason, shall be deemed sold to the Agent.
- 11.3 The Lottery office shall not be responsible for lost, stolen, or mutilated tickets after sale of same to the public.

#### **12.0 Sale of Tickets – Limitations**

No person may sell a ticket for less than or greater than its stated price. Any such ticket shall be considered an illegal ticket and shall not be validated by the Lottery. No Lottery sales Agent shall sell a ticket to a known third party ticket resaler or enter computer-generated betting slips from a third-party resaler for the sale of Lottery tickets. No person other than a duly licensed Lottery sales Agent or his employee may sell lottery tickets except that nothing in this section shall be construed to prevent a person who may lawfully make such a purchase from making a gift of lottery tickets to another. An Agent shall not sell a ticket away from locations listed in his license.

#### **13.0 Purchasing Restrictions**

- 13.1 No ticket or share in any Delaware Lottery game shall be purchased by, and no prize be paid to an employee of the Lottery Office or any member of their immediate households. This restriction shall also prohibit the purchase of any lottery ticket for a game in which the Delaware Lottery is joint participant.
- 13.2 No ticket or share in games where winners are determined by drawings, shall be purchased by, and no prize shall be paid to an employee of Lottery contractors, subcontractors or vendors, or any Lottery contract employee, that has any duty or responsibility associated with the Lottery's drawings, or game operations.
- 13.3 No Lottery game ticket shall be purchased and no prize shall be paid to any Lottery instant ticket supplier employee.
- 13.4 No Lottery games ticket shall be purchased and no prize shall be paid to an employee of the Lottery's on-line games computer system supplier.
- 13.5 All ticket sales shall be final and an Agent is not to accept ticket returns except as otherwise provided in these Regulations or with the approval of the Director.
- 13.6 No ticket or share shall be sold to any person under the age of (18), but this shall not be deemed to prohibit the purchase of a ticket or share for the purpose of making a gift by a person 18 years of age or older to a person less than that age. Any Agent who knowingly sells or offers to sell a lottery ticket to any person under the age of 18 shall be subject to the penalties as provided in the Act.

#### **4 DE Reg. 498 (09/01/00)**

#### **14.0 Types of Lotteries**

- 14.1 The Lottery Office reserves the right to institute any type of lottery game as is allowable under the Act any time it is deemed in the best interest of the State.
- 14.2 Rules and regulations concerning individual games will be promulgated by the Director as required.

#### **15.0 Manner of Random Selection**

- 15.1 The dates, times, and locations for each Lottery drawing shall be determined by the Director.
- 15.2 The lottery events shall be open to the public with no admission charge.
- 15.3 The manner of winning number selections shall be defined for each game in the rules for that game.

#### **16.0 Determination of Prize Winners**

- 16.1 The Director shall adopt a prize structure for each type of lottery game administered by him and shall, from time to time, review and, if advisable, revise said prize structure.
- 16.2 The pertinent prize structure shall become a part of the rules of each game offered by the State Lottery.

- 16.3 Any prize structure adopted by the Director and any revisions thereof shall take effect on the date announced by the Director, provided, however, that no revision of the prize structure may take effect after the initiated time for sale of tickets for the winner determination in the game.

#### **4 DE Reg. 498 (09/01/00)**

### **17.0 Notification of Prize Winners**

As soon as practicable after each drawing, each Agent shall, at each location for which a license has been issued, post in a prominent and conspicuous part of his business location in full view of the public, the winning lottery numbers. The winning weekly lottery numbers shall remain posted until the next weekly lottery makes new numbers available to be posted. Each Agent shall fully cooperate to give the public exposure and type of display of the winning lottery numbers in his location as may be requested by the Director.

### **18.0 Procedure for Claiming Prizes**

- 18.1 The following shall be the procedure by which prizes may be claimed and paid from the State Lottery Fund:
- 18.1.1 Place of Claims: - All cash prizes under an amount defined by the Director may be claimed through a duly authorized claim center, which may be but is not limited to an Agent's licensed location or at the offices of the Division of Revenue. All cash prizes greater than \$5000 must be claimed at the Lottery Office Headquarters.
  - 18.1.2 Claim Forms – Each prize ticket winner may be required to complete a claim form and to sign the winning ticket or both at the discretion of the Director. If the prize ticket owner is a minor or a person unable to complete the required form(s), then said minor or person shall have his guardian, conservator, adult member of his household, or other proper representative complete the claim form in his stead. If the Director determines that the person who completed the claim form on behalf of the owner is not the proper person to claim the prize on behalf of the owner, the Director may require a new claim form completed by a person to claim the true owner's prize. The claim form shall be in such form as the Director may, from time to time, deem necessary and proper to protect the Agency and the public interest.
  - 18.1.3 Listing Winning Tickets – Each Agent will be provided with a list containing winning lottery numbers for prior weeks.
  - 18.1.4 Lottery Verification – The Agent shall review the winning ticket and must be assured that the ticket is a proper winner and is signed by the claimant. The Agent shall validate the winning ticket and pay to the winner the amount of winnings up to the limit set by the Director. Should the Agent have any questions about the validity of a winning ticket, the ticket must be turned in to the Lottery office for payment.
  - 18.1.5 Lottery Validation – All winning tickets will be validated. A winning ticket must not be counterfeit in whole or in part and must be presented by a person authorized to play the Lottery. In the event it is determined that a prize was paid by an Agent on a ticket which was not a winner, for any reason, the person signing the ticket will be contacted, advised of the error and will be required to reimburse the Lottery for said payment. If an Agent pays any claim, which was not a winner and the holder of the ticket fails to reimburse the Lottery or cannot be located, the Agent will be held responsible for the improper payment. All winning tickets submitted on a claim form to the Lottery Office for payment shall be validated. In the event that a ticket is determined to be invalid, the Director will notify the claimant that said ticket is invalid and no prize will be paid. All tickets will be considered void if altered, torn, misprinted, illegible or damaged unless the Director is satisfied that the ticket is genuine. If it is determined that a ticket contains a manufacturing defect which makes said ticket appear to be a winner when in fact it is not, the bearer shall have the right to expect reimbursement for the full purchase price of said ticket, but shall not be awarded any prize.
  - 18.1.6 Appeal by Claimant – If a claimant is aggrieved by the Director's denial of his claim or a prize, he may request an informal hearing with the Director to discuss his grievances and a reconsideration of his claim by the Director. If the Director concludes that there is meritorious basis for the claimant's complaint, he may revise his prior decision. The decision of the Director shall be final.
  - 18.1.7 Duration of Ticket Redeemability – A winning on-line ticket will be redeemable for a period of twelve (12) calendar months from the Drawing Date of the lottery for which it was purchased. A winning instant scratch game ticket will be redeemable for a period of twelve (12) calendar months from the announced end of that game's sales. Prizes not collected within that period revert to the State Lottery Fund of the Delaware State Lottery in order to fulfill the statutory prize requirement.
- 18.2 The Director reserves the right to offer special prizes above and beyond the normal prize structure. These prizes may be only redeemable for a specific period after which no prize will be awarded. These special situations will be clearly detailed in announcements to the public providing ample time for claims.

18.3 The Director may establish and modify procedures by which prizes may be claimed and paid by authorized Agents.

**4 DE Reg. 498 (09/01/00)**

**19.0 Ownership of Lottery Tickets**

Until such time as a name is imprinted or placed upon the rear portion of the lottery ticket in an area designated for "name", a lottery ticket which has been sold shall be owned by the physical possessor of said ticket. Unsold tickets remain the property of the Lottery Office. When a name is placed on the rear of said ticket in the place designated therefor, the person(s) whose name(s) appear in that area shall be the owner(s) of said ticket and shall be entitled to any prize attributed thereto. Unless there is a conflict between the information on the claim form and the signature(s) on the back of the ticket, the Lottery Office shall make payment to the name(s) appearing on the back of the ticket in the space designated therefor, provided if more than one name appears on the rear of the lottery ticket, one of those persons whose name appears thereon may be designated to receive payment. This may be done by indicating on the claim form and by the signature on the claim form of all persons whose names appear on the rear of the ticket. The person(s) appearing for payment shall be the same as those whose name(s) that which appear on the rear portion of the lottery ticket in the space designated.

**4 DE Reg. 498 (09/01/00)**

**20.0 Prize Rights Unassignable**

No right of any person to a prize drawn shall be assignable, except that payment of any prize drawn may be paid to the designated Beneficiary(ies) of a deceased prize winner, and except that any person pursuant to an appropriate judicial order may be paid the prize to which the winner is entitled. The Director shall be discharged of all liability upon payment of a prize pursuant to this section.

**21.0 Payment of Prizes to Persons Under 18 Years of Age**

If the person entitled to a prize for any winning ticket is under the age of eighteen (18) years, and such prize is less than \$5,000.00, the Director may direct payment of the prize by delivery to an adult member of the minor's family or a guardian of the minor of a check or draft payable to the order of the minor. If the person entitled to a prize on any winning ticket is under the age of eighteen (18) years, and the prize is \$5,000 or more, the Director may direct payment to the minor by depositing the amount of the prize in a bank to the credit of an adult member of the minor's family or a guardian of the minor as a custodian in accordance with Delaware Law and for the purpose of this section the term "adult member of minor's family," "guardian of minor," and "bank" shall have the same meaning as in the Uniform Gifts to Minors Act, as applicable in Delaware. The Director shall be discharged of all liability upon payment of a prize to a minor pursuant to this section.

**22.0 Prizes Payable After Death or Disability of Owner**

All prizes or a portion thereof which remain unpaid at the time of the prize winner's death shall be payable to the prize winner's designated beneficiary(ies). The payment to the designated beneficiary(ies) of the deceased owner of any prize winnings by the Lottery Office shall absolve the Lottery Office and its Agents of any further liability for payment of said prize winnings. The Lottery Office need not look to the payment of the prize winning beyond the payee thereof. Under no circumstances will the payment of prize money be accelerated beyond its normal dates of payment by the Lottery Office. The Director reserves the right to petition any court of competent jurisdiction to request a determination for the payments of any prize winnings, including those winnings which are or may become due to the designated beneficiary(ies) of a deceased owner or an owner under a disability because of, but not limited to, underage, mental deficiency, physical or mental incapacity. If the legatee(s) or heir(s) of a deceased owner entitled to prize winnings obtain an order from a court of competent jurisdiction directing payments due and to become due from the Lottery Office to be paid directly to said legatee(s) or heir(s) or otherwise directs the Lottery Office to make payments to another in the event of an owner's disability or otherwise, the Lottery Office shall pay the prize winnings accordingly.

**23.0 Payment of Prizes**

23.1 All prizes shall be paid within a reasonable time after they are awarded and after the claims are verified by the Director. For each prize requiring annual payments, all payments after the first payment shall be made on the anniversary date of the first payment in accordance with the type of prize awarded. The Director may, at any time, delay any payment in order to review a change of circumstances relative to the prize awarded, the payee, the claim, or any other matter that may have come to his attention. All delayed payments will be brought up to



date immediately upon the Director's confirmation and continue to be paid on each original anniversary date thereafter.

- 23.2 For Grand Prizes in the Lottery's Powerball game, those prizes shall be paid at the election of the player made no later than 60 days after the player becomes entitled to the prize with either a per winner annuity or cash payment. If the payment election is not made at the time of purchase and is not made by the player within 60 days after the player becomes entitled to the prize, then the prize shall be paid as an annuity prize. An election for an annuity payment made by a player before ticket purchase or by system default or design may be changed to a cash payment at the election of the player until the expiration of 60 days after the player becomes entitled to the prize. The election to take the cash payment may be made at the time of the prize claim or within 60 days after the player becomes entitled to the prize. An election made after the winner becomes entitled to the prize is final and cannot be revoked, withdrawn, or otherwise changed. Shares of the Grand Prize shall be determined by dividing the cash available in the Grand Prize pool equally among all winners of the Grand Prize. Winner(s) who elected a cash payment shall be paid their share(s) in a single cash payment. The annuitized option prize shall be determined in accordance with the rules and procedures approved by the Multi-State Lottery Association, of which the Delaware Lottery is a participating member. Neither the Multi-State Lottery Association nor the member lotteries including the Delaware Lottery shall be responsible or liable for changes in the advertised or estimated annuity prize amount and the actual amount purchased after the prize payment method is actually known to the Multi-State Lottery Association. In certain instances announced by the Multi-State Lottery Association Product Group, the Grand Prize shall be a guaranteed amount and shall be determined pursuant to MUSL rules and procedures. If individual shares of the cash held to fund an annuity is less than \$250,000, the MUSL Product Group, in its sole discretion, may elect to pay the winners their share of the cash held in the Grand Prize pool. All annuitized prizes shall be paid annually in twenty-five equal payments with the initial payment being made in cash, to be followed by twenty-four payments funded by the annuity.

### **3 DE Reg. 523 (10/01/99)**

#### **24.0 Discharge of State Lottery Upon Payment**

The State of Delaware, its Agents, officers, employees and representatives, the Lottery Office, its Director, Agents, officers, employees and representatives, shall be discharged of all liability upon payment of a prize or any one installment thereof to the holder of any winning lottery ticket or in accordance with the information set forth on the claim form supplied by the Director. If there is a conflict between the information on the winning lottery ticket and the information on the claim form, the Lottery Office may rely on the claim form after the ticket has been validated as a winning ticket and, in so doing, it will be relieved of all responsibility and liability in the payment of a prize in accordance with the information set forth therein. The Lottery Office's decision and judgment in respect to the determination of a winning ticket or of any other dispute arising from payment or awarding of prizes shall be final and binding upon all participants in the Lottery unless otherwise provided by law or these regulations. In the event a question arises relative to the winning ticket, a claim form, the payment, or the awarding of any prize, the Lottery Office may deposit the prize winnings into an escrow fund until it determines the controversy and reaches a decision, or it may petition a court of competent jurisdiction for instructions and a resolution of the controversy.

#### **25.0 Declaratory Rulings by the Lottery Office**

- 25.1 On petition of any interested person, the Director may issue a declaratory ruling with respect to the applicability to any person, property or state of facts of any rule or statute enforceable by it, or the Director may refer such matters to the State Attorney General for such disposition.
- 25.2 In the case of any matter concerning which a Declaratory ruling is brought for appeal, the petitioner may be represented by an attorney.

#### **26.0 Postponement of Drawings**

The Director may postpone any drawing to a certain time and publicize the same if he finds, in his sole discretion, that such postponement will serve the public interest and protect the public interest.

#### **27.0 Amendments**

The Director may amend, modify, or otherwise change these Regulations upon full compliance with law; said amendments, modifications or changes shall become as effective and applicable to Lottery business and administration as if part of the original Regulations.

## **28.0 Freedom of Information Requests**

- ~~28.1 Purpose. The purpose of this section is to prescribe regulations for the inspection and copying of public records by any citizen of the State of Delaware, held by the Delaware State Lottery Office, pursuant to 29 Del.C. Ch. 100 (the "Act").~~
- ~~28.2 Availability of Records~~
- ~~28.2.1 Requirement of Citizenry~~
- ~~28.2.1.1 Persons other than citizens of Delaware are not entitled to the public review of records pursuant to 29 Del.C. Ch. 100.~~
- ~~28.2.1.2 The requester shall submit proof of Delaware citizenship to the Lottery. The Lottery may require verification of any information provided concerning citizenry before considering the request to provide access to public records. If the requester does not submit the verification upon the request of the Lottery Office, the request shall be denied.~~
- ~~28.2.1.3 The Lottery Office reserves the right to deny access to anyone other than the requester.~~
- ~~28.2.1.4 The Lottery Office shall consider a requester submitting any of the following a citizen of Delaware for purposes of these Regulations:~~
- ~~28.2.1.4.1 The requester's current residential or business address is within the State of Delaware~~
- ~~28.2.1.4.2 A copy of a current Delaware driver's license of the individual requesting the documents;~~
- ~~28.2.1.4.3 A copy of Certification of Incorporation or the corporate identification number if the requester is a corporation of the State of Delaware; or~~
- ~~28.2.1.4.4 A copy of the requester's Delaware voter registration card.~~
- ~~28.2.2 Department Record Review~~
- ~~28.2.2.1 Public records may be examined by the requester after the records have been located and reviewed by the Lottery Office to exclude records that are not public pursuant to the Act and these Regulations.~~
- ~~28.3 Exemptions. Documents determined by the Lottery Office not to be public pursuant to 29 Del.C. §10002(d) will not be available for examination or public review.~~
- ~~28.4 Record Request and Response Procedures~~
- ~~28.4.1 Form of Request~~
- ~~28.4.1.1 All requests for access to records pursuant to the Act and these Regulations shall be made in writing. Except for subpoena duces tecum or other such requests for production, all envelopes containing the request and the letter itself shall both clearly indicate that the subject is a Freedom of Information Act request.~~
- ~~28.4.1.2 All requests for access to records shall adequately describe the record sought in sufficient detail to enable the Lottery Office to locate the record with reasonable effort. The application request shall contain the name of the person making the request, the name and address of the person to whom the request is made, the purpose for the request and the planned use of the records, a reasonable description of the records requested, including the name, subject matter, number and date where possible. Requests that lack sufficient detail to enable the Lottery Office to identify records responsive to the request may be denied.~~
- ~~28.4.1.3 All written applications for access to records shall be acknowledged within fifteen (15) working days. If access to the records is granted, the materials will be provided in a reasonable time period by taking into consideration such factors as the specificity of the request, the amount of research or time required to retrieve the records, and the extent or scope of the request.~~
- ~~28.4.1.4 If the records are in active use or in storage and therefore, are not available at the time a request for same is made, the Lottery Office will so inform the individual and will provide access to the records as expeditiously as they may be made available.~~
- ~~28.4.2 Time and Place for Examination~~
- ~~28.4.2.1 The public may examine public records which are available, by appointment, at the offices of the State Lottery Office between the hours of 9:30 a.m. and 3:00 p.m. on Monday through Friday, excluding state holidays.~~
- ~~28.4.2.1.1 No individual shall remove the originals or the copies of any records from the Lottery Office without written permission of the Lottery Office's custodian of the records.~~
- ~~28.4.2.1.2 The Lottery Office will provide reasonable facilities for conducting the inspection of the records.~~
- ~~28.4.2.1.3 The Lottery Office will supervise the conduct of the inspection in order to protect the records and to prevent the disruption of the essential functions of the Office.~~

~~28.4.2.2 The Lottery Office will be under no duty or obligation to furnish copies of records by mail and may require the individual requesting the records to inspect said records prior to furnishing copies if a request for access is voluminous, or too general, or both. If copies of the requested records are to be furnished by mail, however, the fee as determined by section V of these regulations and the mailing costs shall be collected before the copies are forwarded to the individual requesting same.~~

#### ~~28.4.3 Reproduction of Documents~~

~~28.4.3.1 Public records may be reproduced and copies may be provided to the requester in accordance with Section 5.0 of these regulations.~~

~~28.4.3.2 When the Lottery Office determines that a request for reproduction is unduly burdensome, the Lottery Office may, in its discretion:~~

~~28.4.3.2.1 Arrange for a commercial facility to make the reproductions at the expense of the requester; or~~

~~28.4.3.2.2 Make any other arrangements for reproduction that are suitable to the Lottery Office.~~

~~28.4.3.3 When a request for reproduction is made that exceeds 100 photocopied pages, the Lottery Office may require the requester to provide, at the requestor's expense personnel and equipment to make the reproductions.~~

#### ~~28.5 Fees~~

~~28.5.1 The cost of photocopying public records shall be .50 per photocopied page and the associated costs of delivery.~~

~~28.5.2 Where it is anticipated that the fee chargeable pursuant to this section will exceed twenty five dollars (\$25.00) and the person making the request has not indicated in advance a willingness to pay such a fee, that person shall be promptly informed of the amount of the anticipated fee or such portion thereof as can be readily estimated. The notice shall afford and so advise the person of the opportunity to confer with the Lottery Office for the purpose of reformulating the request so as to meet that person's needs at a reduced cost.~~

~~28.5.3 The Lottery Office reserves the right to refuse access to requesters who have an outstanding balance for photocopies owed to the Lottery Office.~~

~~28.5.4 Payment of fees pursuant to this section shall be made in cash, U.S. money order, business check, or by certified bank check payable to the Delaware State Lottery Office.~~

### **298.0 Fingerprinting Procedures**

#### 298.1 State Bureau of Identification

298.1.1 The applicant or licensee will contact the State Bureau of Identification to make arrangements for fingerprint processing.

298.1.2 A fee is required for state and federal processing of fingerprint cards and criminal history records, payment shall be made in the form of certified check or money order payable to the Delaware State Police Video Lottery Enforcement Unit (VLEU). The fee is set by the State Bureau of Identifications and payment is to be made directly to that agency.

298.1.3 the waiver form to release criminal history record information to the Director. At the time of the processing, the applicant must show proof of identification to complete the criminal history request and pay the appropriate fee.

298.1.3.1 The applicant must contact the VLEU and submit the completed license application form and fingerprint verification/receipt for processing. No investigation will proceed without a copy of the SBI fingerprinting receipt.

298.1.3.2 Investigators assigned to the VLEU will conduct an initial investigation to determine the suitability of the applicant. If the applicant is approved, a temporary license may, at the discretion of the Director, be issued at that time pending SBI's final report. This temporary license is valid for thirty (30) days from the issue date.

298.1.3.3 A waiver will be signed by the applicant indicating that should an unfavorable criminal history background check be received by the VLEU, including any detrimental information or failure to fully disclose criminal history, the applicant's temporary license may be revoked. If revoked, the applicant will then be required to respond to VLEU within five (5) working days for another interview.

298.1.3.4 Should the Director determine the applicant is to be fully licensed, the Lottery shall send the applicant a letter stating such.

298.1.4 Certified copies of the criminal history will be forwarded to the Director of the Lottery, with a copy available to the applicant upon request.

298.1.5 A Verification Form of Processing will be completed by Delaware State Police personnel and provided to the applicant.

298.1.6 The State Bureau of Identification shall act as the intermediary for the receipt of the federal criminal history record checks performed by the Federal Bureau of Identification. The State Bureau of Identification shall forward the results of these federal record checks to the attention of the Lottery Director in a confidential manner.

## 298.2 Lottery Office

### 298.2.1 Determination of Suitability and Appeal Process

298.2.1.1 A person subject to 29 **Del.C.** §4807A shall have the opportunity to respond to the Lottery Director regarding any information obtained prior to a determination of suitability for licensure. Such a response shall be made within ten (10) working days of the person's receipt of the criminal background information from the State Bureau of Identification. The determination of suitability for licensure shall be made by the Lottery pursuant to the factors listed in 29 **Del.C.** §4807A in regard to an applicant's criminal history. The Lottery will also consider the factors contained in 29 **Del.C.** Ch. 48 and the Lottery Regulations in considering agent applications for licensure.

298.2.1.2 The Lottery shall communicate the results of the determination of suitability in writing, within thirty (30) days of the receipt of the person's response to the criminal history information, unless extenuating circumstances require a longer period. If a determination is made to deny a person licensure, the person shall have an opportunity to appeal for reconsideration as set out below.

298.2.1.2.1 Appeal shall be initiated by a person notified that he/she is being denied a license pursuant to 29 **Del.C.** §4807A and in compliance with Section 5(c) of these Regulations by submitting a letter of appeal to the Lottery Director within ten (10) working days of the receipt of the written notice.

298.2.1.2.2 The appeal shall be reviewed by the Lottery Director and the person shall be given the right to be heard by the Director or the Director's designee within ten (10) working days of the receipt of letter of appeal, unless extenuating circumstances require a longer period.

298.2.1.2.3 A written decision shall be rendered by the Director or the Director's designee within thirty (30) working days of the hearing, unless extenuating circumstances require a longer period. All decisions made by the Lottery under this appeal procedure are final.

## 298.3 Confidentiality

298.3.1 All records pertaining to criminal background checks, pursuant to 29 **Del.C.** §4807A and copies of suitability determinations of applicants for licensure, shall be maintained in a confidential manner, including, but not limited to, the following:

298.3.1.1 Access to criminal background check records, and letters of reference accompanying out-of-state criminal background checks, and determinations of suitability of applicants shall be limited to the Director and designated personnel;

298.3.1.2 All such records shall be kept in locked, fireproof cabinets;

298.3.1.3 No information from such records shall be released without the signed approval of and appropriate signed release of the applicant.

## 298.4 Subsequent Criminal History Information

298.4.1 Subsequent criminal history shall be sent by the State Bureau of Identification to the Director of the Lottery and shall be used by the Lottery in making a determination about the person's continued suitability as a licensee.

**4 DE Reg. 498 (09/01/00)**

**10 DE Reg. 1821 (06/01/07)**

## **3029.0 Non-Discrimination on the Basis of Disability in Delaware Lottery Programs**

### 3029.1 Definitions

**"Accessible"** means complying with the technical requirements found in the ADA Accessibility Guidelines (ADAAG).

**"Accessible Route"** means a continuous unobstructed path connecting all accessible elements and spaces of a building or facility. Interior accessible routes may include corridors, floors, ramps, elevators, lifts, and clear floor space at fixtures. Exterior accessible routes may include parking access aisles, curb ramps, crosswalks at vehicular ways, walks, ramps, and lifts.

**"ADA"** means the Americans with Disabilities Act (42 United States Code. §§12101-12213 and 47 United States Code §225 and §611).

**“Director”** means the Director of the State Lottery Office.

**“Entrance”** means any access point to a building or portion of a building or facility used for the purpose of entering. An entrance includes the approach walk, the vertical access leading to the entrance platform, the entrance platform itself, vestibules if provided, the entry door(s) or gate(s), and the hardware of the entry door(s) or gate(s).

**“Facility”** means all or any portion of buildings, structures, site improvements, complexes, equipment, roads, walks, passageways, parking lots, or other real or personal property located on a site.

**“Inspection Report”** means a completed survey of the retailer or applicant facility that identifies barriers to program accessibility, if any and suggest possible solutions.

**“Lottery Program”** means on-line and instant games offered to the public through retailer licensees.

**“Lottery” or “State Lottery Office”** means the lottery established by the Delaware State Lottery Law, Chapter 348, Volume 59, of the Laws of Delaware.

**“Lottery Retailer” or “Retailer”** means a business entity housed in a specific retail facility that is under license with the Delaware Lottery to provide lottery related services.

**“Service Site”** means an area within a lottery retailer facility where a customer can purchase a lottery related product. This is usually the cashier’s station.

**“Technically Infeasible”** means, with respect to an alteration of a building or a facility, that it has little likelihood of being accomplished because existing structural conditions would require removing or altering a load-bearing member which is an essential part of the structural frame; or because other existing or site constraints prohibit modification or addition of elements, spaces, or features which are in full and strict compliance with the minimum requirements for new construction and which are necessary to provide accessibility.

## 3029.2 Purpose

3029.2.1 The Americans with Disabilities Act (P.L. 101-336, U.S.C. §§ 12131-12134), known as the ADA, prohibits discrimination on the basis of disability in the delivery of programs offered by entities of state or local government. The purpose of this regulation is to ensure that the Delaware Lottery is in compliance with the ADA by ensuring that people with disabilities have access to Delaware Lottery programs.

3029.2.2 In defining the scope or extent of any duty imposed by these regulations including compliance with the standard of accessibility defined in paragraph 3(b), higher or more comprehensive obligations established by otherwise applicable federal, state or local enactment may be considered.

## 3029.3 General Requirements

3029.3.1 Prohibition of discrimination. No lottery retailer shall discriminate against any individual on the basis of a disability in the full and equal enjoyment of lottery related goods, services, facilities, privileges, advantages, or accommodations of any lottery licensed facility.

3029.3.2 Standard of accessibility. Each Retailer is required to meet a standard of accessibility that enables people with disabilities, including those who use wheelchairs, to enter the lottery licensed facility and participate in the lottery program. An accessible route must be provided comprised of the following accessible elements:

3029.3.2.1 Parking, if parking is provided to the general public;

3029.3.2.2 Exterior route connecting parking (or a public way if no parking is provided) to an accessible entrance;

3029.3.2.3 Entrance;

3029.3.2.4 Interior Route connecting the entrance to a service site.

3029.3.3 Each element shall meet the design standards set forth in the ADA Accessibility Guidelines (ADAAG) published in the Federal Register on July 26, 1991.

## 3029.4 New License Applicants

3029.4.1 License applicants. The State Lottery Office shall inspect the site of applicants for compliance with this regulation prior to granting a license. The State Lottery Office will not grant a license to an applicant who is not in compliance with this regulation.

3029.4.2 Inspection reports. The State Lottery Office, prior to granting a license, shall provide lottery applicants with an Inspection Report that shall identify barrier removal actions, if any, necessary to provide program accessibility. The identified actions must be completed prior to the granting of a license.

## 3029.5 Current Retailers

3029.5.1 The State Lottery Office shall inspect the site of each lottery retailer for compliance with this regulation.

3029.5.2 Inspection reports. The State Lottery Office shall provide to all current retailers an Inspection Report that shall identify barrier removal actions necessary to provide program accessibility. The identified actions must be completed within 90 days of receipt of the Inspection Report.

3029.5.3 Extensions. The Director may grant an extension of up to 90 days to allow a current retailer to complete barrier removal actions identified in the Inspection Report.

3029.5.3.1 Any request for an extension must be in writing, and shall include specific reasons for an extension and supporting documentation.

3029.5.3.2 The Director shall grant an extension only upon showing of good cause.

#### 3029.6 Permitted exemptions

3029.6.1 The following exemptions to the requirements of this rule may be granted by the Director. The Director shall review the circumstances and supporting documentation provided by the retailer to determine if the retailer's request for an exemption should be granted. The Director shall determine the type and scope of documentation to be required for each exemption classification. All decisions made by the Director shall be final; any retailer whose request for an exemption is denied by the Director shall be required to satisfy the requirements of this rule as a condition for maintaining its eligibility for a Lottery retailer contract.

3029.6.1.1 Historic properties. To the extent a historic building is exempt under federal law, and if barrier removal would threaten or destroy the historic significance of the structure, this rule shall not apply to a qualified historic building or facility that is listed in or is eligible for listing in the National Register of Historic Places under the National Historic Preservation Act or is designated as historic under State or Local law.

3029.6.1.2 Legal impediment to barrier removal. Any law, act, ordinance, state regulation, ruling or decision which prohibits the lottery retailer from removing a structural impediment or from making a required improvement to the facility may be the basis for an exemption to this rule. A lottery retailer requesting an exemption for a legal impediment will not be required to formally seek a zoning variance to establish such impediment, but will be required to document that they have applied for and have been refused whatever permit(s) are necessary to remove the identified barrier(s).

3029.6.1.3 Landlord refusal. An exemption may be granted based on the refusal of a landlord to grant permission to a Lottery retailer and/or to pay to make improvements required by the Lottery under this rule or based on the refusal of a landlord to pay for improvements required by the Lottery under this rule. The exemption shall only apply to the retailer's current term and does not include any possible renewal periods under the lease. To request such an exemption, the retailer must submit documentation to the Director that the retailer requested the Landlord's permission and financial participation to make the required structural improvements, that such request was denied by the landlord, and the reasons for the denial. In making a decision on the exemption request, the Director shall take into consideration, but not be limited to, the sufficiency of the reasons provided by the landlord for denying the retailer's request.

3029.6.1.4 Undue financial hardship. A limited exemption may be granted if a retailer can demonstrate that the cost of removing a structural barrier or of making the required structural modification(s) to the retailer's facility is an undue financial hardship in that the cost of making such a change(s) exceeds 25% of the retailer's compensation from the Lottery for the prior calendar year (An annualized sales figure based upon the retailer's most current 13-week sales period shall be used for those retailer locations with less than a full year's history of sales.) Under the terms of this limited exemption, a retailer would be required to annually make those improvements and modifications that can be financed within an amount that is approximately equal to 25% of the total compensation earned from the Lottery in the prior calendar year. This requirement would continue on a year-to-year basis until all the improvements and modifications required by this rule have been completed. A retailer shall provide all supporting documentation requested by the Director to substantiate the cost estimates of making the required improvements to the retailer's location.

3029.6.1.5 Technical Infeasibility. A permanent exemption may be granted if a retailer can demonstrate that the removal of architectural barriers identified in the inspection report is not possible due to technical infeasibility. If such a claim is made, the Lottery may have the barrier removal action evaluated by a person knowledgeable in accessibility codes and construction to determine the merits of the claim.

3029.6.1.6 Alternative methods. Where an exemption is granted in accordance with the provisions of this subchapter, the lottery retailer shall make the lottery related goods and services available through alternative methods. Examples of alternative methods include, but are not limited to:

3029.6.1.6.1 Providing curb service;

3029.6.1.6.2 Directing by signage to the nearest accessible lottery retailer.

#### 3029.7 Complaints Relating to Non-Accessibility

~~3029~~.7.1 An aggrieved party may file an accessibility complaint with the Lottery Director or designee for review. Complaints must be in writing and, where possible, submitted on an ADA complaint form. As soon as practical, but not later than 30 days after the filing of a complaint, each complaint will be investigated. After the completion of the investigation, if the agency determines that the lottery retailer is not in compliance with this regulation, a letter of non-compliance will be issued to the lottery retailer with a copy to the complainant. If the lottery retailer is determined to be in compliance, a letter so stating will be mailed to the retailer and complainant. Regardless of whether a complaint has been filed, the agency will issue a letter of non-compliance within 30 days after the completion of an onsite inspection of the lottery retailer facility if the agency determines that the lottery retailer is not in compliance with this regulation.

~~3029~~.7.2 If the letter of non-compliance shows deficiencies in the accessibility of the retailer facility, the lottery retailer shall submit a plan to the agency within 30 days of the issuance of the letter of non-compliance. The plan shall describe in detail how the lottery retailer will achieve compliance with this regulation. Compliance shall be accomplished within 90 days of the letter of non-compliance. The Lottery may, upon request and for good cause, grant the lottery retailer additional time to submit the plan.

~~3029~~.7.3 Within 20 days of the submission of the plan to the agency, the Lottery shall notify the lottery retailer of the agency's acceptance or rejection of the plan. If the plan is rejected, the notification shall contain the reasons for rejection of the plan and the corrections needed to make the plan acceptable to the Lottery. If the retailer agrees to make the required corrections, the Lottery shall accept the plan as modified.

~~3029~~.7.4 If a retailer fails to submit a plan within 30 days of issuance of the letter of non-compliance and has not requested an extension of time to submit a plan, the Lottery may proceed to initiate termination proceedings.

~~3029~~.7.5 If approved, the plan must be completely implemented within 60 days of the agency's notice of approval. The Lottery may, upon request, grant the lottery retailer additional time for good cause. Notice of any extension will also be sent to the complainant, if applicable. Any such extension will commence immediately upon expiration of the first 60 day period.

~~3029~~.7.6 If the corrective action taken by the lottery retailer corrects the deficiencies specified in the letter of non-compliance as originally issued or as later revised or reissued or if the onsite inspection of the lottery retailer facility reveals compliance with this regulation, the Lottery will issue a notice of compliance. Until this notice is issued, a complaint will be considered pending.

~~3029~~.7.7 Failure to make the identified modifications in compliance with the accessibility standards and within the required time period will result in the initiation of proceedings to suspend or revoke the lottery license by the agency.

~~3029~~.7.8 A license will be suspended if the Lottery determines that the lottery retailer has made significant progress toward correcting deficiencies listed in the compliance report, but has not completed implementation of the approved compliance plan. If the Lottery determines that the lottery retailer has not made a good faith effort to correct the deficiencies listed in the compliance report, this inaction will result in the revocation of the lottery license for that lottery licensed facility.

~~3029~~.7.9 While proceedings to suspend or revoke a lottery retailer's license are pending pursuant to this regulation, and until a notice of compliance is issued pursuant to ~~30-7.3~~ 29.7.3 of this section, the Lottery shall withhold incentive payments from the lottery retailer. In addition, if a license is revoked pursuant to this regulation, and incentive payments and other privileges have been withheld from the affected retailer pending review of the complaint, the lottery retailer forfeits any claim to such incentive payments or other privileges.

### ~~3029~~.8 Request for Hearings

~~3029~~.8.1 If the Lottery proposes the denial of an application for a license or the suspension or revocation of a lottery retailer's license pursuant to this regulation, the agency shall give the applicant or lottery retailer written notice of the time and place of the administrative hearing not later than thirty (30) days before the date of the hearing.

~~3029~~.8.2 All relevant rules of evidence and time limits established in these rules shall apply to hearings conducted under this regulation.

### ~~3029~~.9 Non-Exclusivity of Remedies

~~3029~~.9.1 Remedies established by these regulations are not intended to supplant, restrict or otherwise impair resort to remedies otherwise available under law, including those authorized by the ADA and Del. Code Ann., Title 6, Ch. 45 (1993).

**3 DE Reg. 523 (10/01/99)**

**3 DE Reg. 951 (01/01/00)**

**4 DE Reg. 498 (09/01/00)**

10 DE Reg. 1821 (06/01/07)  
20 DE Reg. 370 (11/01/16) (Final)