

CHAPTER 2 LICENSING

[Prior to 1/14/87, Iowa Lottery Agency[526] Ch 3]

705—2.1(99E) License eligibility criteria. An applicant is eligible to hold a license to sell lottery tickets or shares only if all of the following requirements are satisfied: the applicant must be at least 18 years old; the applicant has not been convicted of a fraud or felony; the applicant has not been convicted of violating or found to have violated any provision of Iowa Code chapter 99E; the applicant has not had a license issued pursuant to chapter 99E revoked; the applicant has not had a license to sell lottery tickets in another jurisdiction suspended or revoked; the applicant has demonstrated financial responsibility; the applicant is the true owner of the business where tickets will be sold; the applicant disclosed all persons owning at least 10 percent of the business where tickets will be sold; the applicant has not knowingly made a false statement of fact to the lottery or lottery board; the applicant is not an employee of the lottery or lottery board or a spouse, child, brother, sister or parent of a lottery employee or board member residing in the same household as an employee or board member; the applicant is not affiliated with or controlled by a vendor providing tickets or data processing services to the lottery; if the applicant is a foreign corporation, the applicant is registered with the Iowa secretary of state; the applicant is not exclusively engaged in the business of selling lottery tickets, or if the applicant is a nonprofit organization, the applicant must have a purpose apart from the sale of lottery tickets.

The lottery will deny a license to any applicant, who is an individual, if the lottery has received a certificate of noncompliance from the child support recovery unit with regard to the individual, until the unit furnishes the lottery with a withdrawal of the certificate of noncompliance.

This rule is intended to implement Iowa Code sections 99E.9(3), 99E.9(3)“k,” 99E.16(1), 99E.16(7), and 99E.17(3), and Iowa Code 252J.2.

705—2.2(99E,252J) Factors relevant to license issuance. The lottery may issue a license to any applicant to act as a licensed retailer who meets the eligibility criteria established by Iowa Code chapter 99E and these rules. In exercising its licensing discretion the lottery shall consider the following factors: the background and reputation of the applicant in the community for honesty and integrity; the financial responsibility and security of the person and business or activity; the type of business owned or operated by the applicant to ensure consonance with the dignity of the state, the general welfare of the people, and the operation and integrity of the lottery; the accessibility of the applicant’s place of business or activity to the public; the sufficiency of existing licenses to serve the public convenience; the volume of expected sales; the accuracy of the information supplied in the application for a license; the applicant’s indebtedness to the state of Iowa, local subdivisions of the state, or the United States government; if an individual, indebtedness owed for child support payments; and any other criteria or information relevant to determining if a license should be issued.

This rule is intended to implement Iowa Code sections 99E.9(3), 99E.9(3)“k,” 99E.16, and 252J.2.

705—2.3(99E) Applicant or person defined. For purposes of determining whether an applicant or person is eligible for a license, the terms “applicant” or “person” shall include the owner of a sole proprietorship, all partners or participants in a partnership or joint venture, the officers of a fraternal organization, the officers and directors of a corporation, persons owning at least 10 percent or more of a corporation, and any legal entity applying for a license.

This rule is intended to implement Iowa Code sections 99E.9(3), 99E.9(3) “k,” and 99E.16.

705—2.4(99E,252J) Lottery licenses.

2.4(1) The lottery has discretion to license a qualified applicant to sell any one of the following lottery products or any combination of the following products: scratch tickets; pull-tab tickets; and computerized game tickets, if available. The lottery may require an applicant to sell one or more lottery products as a condition of selling any other lottery product. A lottery license authorizes the licensee to sell only the type of lottery products specified on the license.

2.4(2) Any eligible applicant may apply for a license to act as a retailer by first filing with the lottery an application form together with any supplements required. Supplements may include, but are not limited to, authorizations to investigate criminal history, financial records and financial resources, and authorizations to allow the lottery to conduct site surveys.

2.4(3) The fee for a lottery license varies based upon the type of lottery product which the applicant wishes to sell. All license applications must be accompanied by the minimum, nonrefundable fee of \$25. Applications to sell computerized game tickets, if available, must be accompanied by an additional fee of \$100 for a total fee of \$125. The additional fee shall be refunded to an applicant in the event the computerized license portion of the application is denied.

2.4(4) Retailers who are currently licensed may apply for a license modification to allow the sale of additional lottery products. A current retailer may be required to complete an additional application or application supplements. If a current retailer requests that the existing license be modified to allow the sale of scratch tickets or pull-tab tickets, no additional application fee will be charged. If a current retailer requests a modification of an existing license to allow the sale of computerized game tickets, if available, a nonrefundable fee of \$100 will be charged.

2.4(5) The lottery may waive the payment of any license fee to facilitate an experimental program or a research project.

2.4(6) A limited number of retailers may be selected as licensees from applications received. The selection shall be made based on criteria designed to produce the maximum amount of net revenue and serve public convenience. The lottery may refuse to accept license applications for a period of time if the lottery determines that the number of existing retailers is adequate to market any lottery product.

2.4(7) The lottery will grant, deny, or place on hold all applications within 60 days of acceptance of an application. Applications placed on hold shall be considered denied for purposes of appeal. If an application is denied because the lottery has received a certificate of noncompliance from the child support recovery unit in regard to an individual, the effective date of denial of the issuance of the license, as specified in the notice required by Iowa Code section 252J.8, shall be 60 days following service of the notice upon the applicant.

This rule is intended to implement Iowa Code sections 99E.9(3), 99E.9(3) “a,” 99E.9(3) “k,” 99E.16, 252J.2 and 252J.8.

705—2.5(99E) Transfer of licenses prohibited. Lottery licenses may not be transferred to any other person or entity and do not authorize the sale of lottery products at any location other than the licensed premises specified on the license.

This rule is intended to implement Iowa Code sections 99E.9(3) and 99E.16(3).

705—2.6(99E) Expiration of licenses. A license is valid until it expires, is terminated by a change of circumstances, is surrendered by the licensee, or until it is revoked by the lottery. A license which does not have an expiration date will continue indefinitely until surrendered, revoked, or terminated by a change in circumstances.

This rule is intended to implement Iowa Code sections 99E.9(3), 99E.9(3) “k,” and 99E.16.

705—2.7(99E) Provisional licenses. The lottery may issue a provisional license to an applicant for a lottery license after receipt of a fully completed license application, the authorization of a complete personal background check, completion of a credit check, and completion of a preliminary background check. The provisional license shall expire at the time of issuance of the requested license or 90 days from the date the provisional license was issued, whichever occurs first, unless the provisional license is extended by the lottery.

Notwithstanding the foregoing, the lottery will deny a provisional license to any applicant, who is an individual, if the lottery has received a certificate of noncompliance from the child support recovery unit with regard to the individual, until the unit furnishes the lottery with a withdrawal of the certificate of noncompliance. If an application is denied because the lottery has received a certificate of noncompliance from the child support recovery unit in regard to an individual, the effective date of denial of the issuance of the license, as specified in the notice required by Iowa Code section 252J.8, shall be 60 days following service of the notice upon the applicant.

This rule is intended to implement Iowa Code sections 99E.9(3), 99E.9(3) “k,” 99E.16(1), 99E.16(3), 99E.16(4), 252J.2 and 252J.8.

705—2.8(99E) Off-premises licenses. Any licensed retailer who has been issued a license or provisional license to sell tickets may apply for an off-premises license to sell tickets in locations other than that specified on the existing license. The lottery must specifically approve the geographical area in which sales are to be made and the types of locations at which off-premises sales are to be made prior to issuance of an off-premises license. Additional instructions and restrictions may be specified by the lottery to govern off-premises sales. An off-premises license shall expire at the time designated on the off-premises license. An off-premises license may be renewed at the lottery’s discretion.

This rule is intended to implement Iowa Code sections 99E.9(3), 99E.9(3) “k,” 99E.16(1), and 99E.16(2).

705—2.9(99E) Duplicate licenses. Upon the loss, mutilation, or destruction of any license issued by the lottery, application for a duplicate shall be made. A statement signed by the retailer which details the circumstances under which the license was lost, mutilated, or destroyed may be required by the lottery.

This rule is intended to implement Iowa Code sections 99E.9(3), 99E.9(3)“k,” and 99E.16(3).

705—2.10(99E) Reporting changes in circumstances of the retailer. Every change of business structure of a licensed business, such as from a sole proprietorship to a corporation, and every change in the name of a business must be reported to the lottery prior to the change. Substantial changes in the ownership of a licensed business must also be reported to the lottery prior to the change. A substantial change of ownership is defined as the transfer of 10 percent or more equity in the licensed business from or to another single individual or legal entity. If a change involves the addition or deletion of one or more existing owners or officers, the licensee shall submit a license application reflecting the change and any other documentation the lottery may require. All changes will be reviewed by the lottery to determine if the existing license should be continued.

This rule is intended to implement Iowa Code sections 99E.9(3), 99E.9(3)“k,” 99E.16(3), 99E.16(7), and 99E.16(8).

705—2.11(99E) License not a vested right. The possession of a license issued by the lottery to any person to act as a retailer in any capacity is a privilege personal to that person and is not a legal right. The possession of a license issued by the lottery to any person to act as a retailer in any capacity does not automatically entitle that person to sell tickets or obtain materials for any particular game.

This rule is intended to implement Iowa Code sections 99E.9(3), 99E.9(3)“k,” and 99E.16.

705—2.12(99E) Suspension or revocation of a license.

2.12(1) The lottery may suspend or revoke any license issued pursuant to these rules for one or more of the following reasons: failure to meet or maintain the eligibility criteria for license application and issuance established by Iowa Code chapter 99E or these rules; violation of any of the provisions of chapter 99E, these rules, or the license terms and conditions; failing to file any return or report or to keep records required by the lottery; failing to maintain an acceptable level of financial responsibility as evidenced by the financial condition of the business, incidents of failure to pay taxes or other debts, or by the giving of financial instruments which are dishonored; fraud, deceit, misrepresentation, or other conduct prejudicial to the public confidence in the lottery; if public convenience is adequately served by other licensees; failing to sell a minimum number of tickets as established by the lottery; a history of thefts or other forms of losses of tickets or revenue from the business; violating federal, state, or local law or allowing the violation of any of these laws on premises occupied by or controlled by any person over whom the retailer has substantial control; obtaining a license by fraud, misrepresentation, concealment or through inadvertence or mistake; making a misrepresentation of fact to the board or lottery on any report, record, application form, or questionnaire required to be submitted to the board or lottery; denying the lottery or its authorized representative, including authorized local law enforcement agencies, access to any place where a licensed activity is conducted; failing to promptly produce for inspection or audit any book, record, document, or other item required to be produced by law, these rules, or the terms of the license; systematically pursuing economic gain in an occupational manner or context which is in violation of the criminal or civil public policy of this state if such pursuit creates cause to believe that the participation of such person in these activities is inimical to the proper operation of an authorized lottery; failing to follow the instructions of the lottery for the conduct of any particular game or special event; failing to follow security procedures of the lottery for the management of personnel, handling of tickets, or for the conduct of any particular game or special event; making a misrepresentation of fact to a purchaser, or prospective purchaser, of a ticket, or to the general public with respect to the conduct of a particular game or special event; for a licensee who is an individual, where the lottery receives a certificate of noncompliance from the child support recovery unit in regard to the licensee, unless the unit furnishes the department with a withdrawal of the certificate of noncompliance; or allowing activities on the licensed premises which could compromise the dignity of the state.

2.12(2) The effective date of revocation or suspension of a license, or denial of the issuance or renewal of a license, as specified in the notice required by Iowa Code section 252J.8, shall be 60 days following service of the notice upon the licensee. All other notices of revocation or suspension shall be 20 days following service upon a licensee.

2.12(3) If a retailer's license is suspended for more than 180 days from the effective date of the suspension, the lottery will revoke the retailer's license upon 15 days' notice served in conformance with 705—2.13(99E,252J).

2.12(4) Upon revocation or suspension of a retailer's license, the retailer shall surrender to the lottery, by a date designated by the lottery, the license, lottery identification card, and all other lottery property.

This rule is intended to implement Iowa Code sections 99E.9(3), 99E.9(3) "k," 99E.16, 99E.17, and 252J.8.

705—2.13(99E,252J) Methods of service. The notice required by Iowa Code Supplement section 252J.8 shall be served upon the licensee by restricted certified mail, return receipt requested, or personal service in accordance with Rules of Civil Procedure 56.1. Alternatively, the licensee may accept service personally or through authorized counsel.

Notice of a license revocation or a suspension for the reasons described in 705—2.12(99E) shall be served upon the licensee by restricted certified mail, return receipt requested, or personal service in accordance with Rules of Civil Procedure 56.1. Alternatively, the licensee may accept service personally or through authorized counsel. The notice shall set forth the reasons for the suspension or revocation and provide for an opportunity for a hearing. A hearing on the suspension or revocation shall be held within 180 days or less after the notice has been served.

This rule is intended to implement Iowa Code sections 99E.9(3), 99E.9(3)“k,” and 99E.16, and 252J.8.

705—2.14(99E,252J) Licensee’s obligation. Licensees and license applicants shall keep the lottery informed of all court actions and all child support recovery unit actions taken under or in connection with Iowa Code chapter 252J, and shall provide the lottery with copies, within seven days of filing or issuance, of all applications filed with the district court pursuant to Iowa Code section 252J.9, all court orders entered in such actions, and withdrawals of certificates of noncompliance by the child support recovery unit.

This rule is intended to implement Iowa Code sections 99E.9(3), 99E.9(3)“k,” 99E.16, and 252J.8.

705—2.15(99E,252J) Calculating the effective date. In the event a licensee or applicant files a timely district court action following service of a lottery notice pursuant to Iowa Code sections 252J.8 and 252J.9, the lottery shall continue with the intended action described in the notice upon the receipt of a court order lifting the stay, dismissing the action, or otherwise directing the lottery to proceed. For purposes of determining the effective date of revocation or suspension, or denial of the issuance or renewal of a license, the lottery shall count the number of days before the action was filed and the number of days after the action was disposed of by the court.

This rule is intended to implement Iowa Code sections 99E.9(3), 99E.9(3)“k,” 99E.16, 252J.8 and 252J.9.

705—2.16(99E) Financial responsibility. The lottery shall use the following guidelines to determine financial responsibility for a retailer seeking a license to sell lottery products.

2.16(1) Sole proprietorship. If the license applicant is a sole proprietor, during the past two years, the applicant may have up to four accounts past due and no accounts over 90 days past due. The lottery will not require a bond with this credit history.

2.16(2) Partnership. If the license applicant is a partnership, 50 percent of the partners must meet the credit guidelines listed in subrule 2.16(1). If the requirements of subrule 2.16(1) are satisfied, the lottery will not require a bond with this credit history.

2.16(3) Fraternal or civic associations. If the license applicant is a fraternal association, civic organization or other nonprofit entity, the applicant must meet the credit guidelines set forth in subrule 2.16(1). If the requirements of subrule 2.16(1) are satisfied, the lottery will not require a bond with this credit history. If the fraternal or civic association or other nonprofit entity has no credit history or the credit history is incomplete in the sole discretion of the lottery, then the officers of the fraternal or civic association or other nonprofit entity must meet the requirements of subrule 2.16(1). If the requirements of subrule 2.16(1) are satisfied, the lottery will not require a bond with this credit history.

2.16(4) Corporations and limited liability companies—two years or more. If the license applicant is a corporation or a limited liability company and the corporation or the limited liability company has been in existence for more than two years from the date of the application, the license applicant must meet all of the following financial responsibility guidelines:

- a. The license applicant is paying 60 percent of its suppliers on time or within terms; and
- b. The license applicant must have a credit risk class provided by a financial and credit reporting entity of less than 5 or an equivalent rating.

If the corporation or the limited liability company meets the guidelines described in this rule, the lottery will not require a bond from the license applicant.

2.16(5) Corporations and limited liability companies—less than two years. If a corporation has been in existence for less than two years from the date of the application, the lottery will review the credit history of the corporate officers who hold 10 percent or more of the stock of the corporation. If a limited liability company has been in existence for less than two years, the lottery will review the credit history of the members of a limited liability company who have contributed 10 percent or more to the capital of the limited liability company. Fifty percent or more of the corporate officers or members of the limited liability company must meet the credit guidelines set forth in subrule 2.16(1). If the corporate officers or the members of the limited liability company meet the requirements set forth in subrule 2.16(1), the lottery will not require the corporation or the limited liability company to obtain a bond.

2.16(6) Bonding requirements. With respect to any license applicant whose credit history does not meet the guidelines described in subrules 2.16(1) and 2.16(4), the applicant will be required to obtain a bond from a surety company authorized to do business in Iowa or offer a cash bond in the amounts generally described herein. The amount of the bond will vary depending on the type of lottery products sold by the license applicant, the sales history of the retail location or the average volume of sales of lottery products at the location, or a combination of the above factors. The following minimum amounts will be required:

- a. Sale of pull-tab tickets only \$500
- b. Sale of pull-tab and instant tickets only \$1,500
- c. Sale of all products including on-line games \$2,500

2.16(7) Holding period for bond. The lottery will hold the bond provided by license applicant for a minimum time period of one year. Thereafter, the lottery will review the credit history of the licensed retailer. If the retailer's account history shows no delinquent payments, the lottery will release the bond.

This rule is intended to implement Iowa Code section 99E.16(4).

[Filed emergency 6/14/85—published 7/3/85, effective 6/14/85]
[Filed emergency 7/12/85—published 7/31/85, effective 7/12/85]
[Filed emergency 9/20/85—published 10/9/85, effective 9/20/85]
[Filed emergency 12/27/85—published 1/15/86, effective 12/30/85]
[Filed emergency 2/21/86—published 3/12/86, effective 2/21/86]
[Filed emergency 4/18/86—published 5/7/86, effective 4/21/86]
[Filed emergency 12/23/86—published 1/14/87, effective 12/26/86]
[Filed 4/15/88, Notice 1/27/88—published 5/4/88, effective 6/8/88]
[Filed 11/3/88, Notice 8/10/88—published 11/30/88, effective 1/4/89]
[Filed 12/8/89, Notice 10/18/89—published 12/27/89, effective 2/1/90]
[Filed 2/10/95, Notice 8/31/94—published 3/1/95, effective 4/5/95]
[Filed 4/26/96, Notice 1/17/96—published 5/22/96, effective 6/26/96]
[Filed 4/30/99, Notice 3/24/99—published 5/19/99, effective 7/1/99]