

LOTTERY AUTHORITY, IOWA[531]

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[Prior to 9/17/03, see Lottery Division[705]]

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CHAPTER 1
GENERAL OPERATION OF THE LOTTERY

[Prior to 1/14/87, Iowa Lottery Agency[526] Ch 1]
[Prior to 9/17/03, see 705—Ch 1]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

531—1.1(17A) Purpose. The Iowa lottery authority was established by Iowa Code Supplement chapter 99G to operate the state lottery.

This rule is intended to implement Iowa Code section 17A.3(1).

531—1.2(17A) Organization. The lottery is administered by the lottery authority board. The lottery is directed and supervised by the chief executive officer of the lottery. The lottery authority board has rule-making authority for the lottery.

This rule is intended to implement Iowa Code section 17A.3(1).

531—1.3(17A) Location. Lottery headquarters is located at 13001 University Avenue, Clive, Iowa 50325-8225. The lottery has regional offices located throughout the state offering some of the services available at the headquarters office. Information regarding lottery headquarters and regional offices can be obtained on the lottery Web site, www.ialottery.com, on point-of-sale game-play publications, and by contacting the lottery headquarters. The lottery authority board may be contacted through lottery headquarters. Office hours at all offices are 8 a.m. to 4:30 p.m., Monday through Friday. Prize redemption operations close at 4 p.m.

This rule is intended to implement Iowa Code section 17A.3(1).

[ARC 1954C, IAB 4/15/15, effective 5/20/15]

531—1.4(17A) Board meetings. The lottery authority board shall meet at least quarterly and may meet more often if necessary. The chief executive officer, the chairperson of the board, or a majority of the board may call a special board meeting. Board meetings are generally held at lottery headquarters at 13001 University Avenue, Clive, Iowa 50325-8225. Board meetings may be held by teleconference.

This rule is intended to implement Iowa Code section 17A.3(1) “a.”

[ARC 1954C, IAB 4/15/15, effective 5/20/15]

531—1.5(17A,22,99G,252J) Public records and fair information practices.

1.5(1) In general, the business records of the lottery shall be public to the extent described in Iowa Code chapter 22. However, under Iowa Code Supplement section 99G.34, the following records shall be kept confidential, unless otherwise ordered by a court, by the lawful custodian of the records, or by another person duly authorized to release such information:

- a. Marketing plans, research data, and proprietary intellectual property owned or held by the lottery under contractual agreements.
- b. Personnel, vendor, and player social security or tax identification numbers.
- c. Computer system hardware, software, functional and system specifications, and game play data files.
- d. Security records pertaining to investigations and intelligence-sharing information between lottery security officers and those of other lotteries and law enforcement agencies, the security portions or segments of lottery requests for proposals, proposals by vendors to conduct lottery operations, and records of the security division of the lottery pertaining to game security data, ticket validation tests, and processes.
- e. Player name and address lists, provided that the names and addresses of prize winners shall not be withheld.
- f. Operational security measures, systems, or procedures and building plans.
- g. Security reports and other information concerning bids or other contractual data, the disclosure of which would impair the efforts of the lottery to contract for goods or services on favorable terms.
- h. Information that is otherwise confidential obtained pursuant to investigations.

1.5(2) Records, documents, and information in the possession of the lottery received pursuant to an intelligence-sharing, reciprocal use, or restricted use agreement entered into by the lottery with a federal department or agency, any law enforcement agency, or the lottery regulation or gaming enforcement agency of any jurisdiction shall be considered investigative records of a law enforcement agency not subject to Iowa Code chapter 22 and shall not be released under any condition without the permission of the person or agency providing the record or information. Additionally, the results of background investigations conducted pursuant to Iowa Code Supplement section 99G.10(8) shall not be considered public records.

1.5(3) The lottery shall maintain and make available for public inspection at its offices during regular business hours a detailed listing of the estimated number of prizes of each particular denomination that are expected to be awarded in any game that is on sale or the estimated odds of winning the prizes and, after the end of the claim period, shall maintain and make available a listing of the total number of tickets or shares sold in a game and the number of prizes of each denomination that were awarded.

1.5(4) Notwithstanding any statutory confidentiality provision, the lottery may share information with the child support recovery unit through manual or automated means for the sole purpose of identifying licensees or applicants subject to enforcement under Iowa Code chapter 252J or 598.

1.5(5) Copies of public lottery business records may be obtained upon a written request made to the Iowa Lottery Authority, 13001 University Avenue, Clive, Iowa 50325-8225. The lottery may charge reasonable fees, including staff research and copying time, for the processing of any public records production requests.

This rule is intended to implement Iowa Code sections 22.11 and 252J.2, Iowa Code Supplement sections 99G.9(3) and 99G.10(8) and Iowa Code chapter 598.

[ARC 1954C, IAB 4/15/15, effective 5/20/15]

531—1.6(99G) Specific game rules. Specific game rules as authorized in Iowa Code Supplement section 99G.9(4) shall be made available by the lottery as necessary for the efficient conduct of specific lottery games. These rules may include, but are not limited to, descriptions of specific games, special promotions, and drawing procedures. Specific game rules shall be provided to board members as soon as is practical following issuance by the lottery. The promulgation of specific game rules is not subject to the requirements of Iowa Code chapter 17A.

This rule is intended to implement Iowa Code Supplement section 99G.9(4).

531—1.7(99G) Lottery contracting authority. The chief executive officer shall enter into contracts necessary for day-to-day operations, including without limitation contracts for accounting services, security services, annuity purchases, equipment and production, communications, auditing services, legal services, space planning, and remodeling. The chief executive officer may enter into these contracts without presenting these contracts to the board for approval or ratification. Contracts for consulting services that are expected to cost in excess of \$25,000 and all contracts for major procurements as defined in Iowa Code Supplement section 99G.3(8), must be ratified by the board in order to be binding on the lottery.

This rule is intended to implement Iowa Code Supplement sections 99G.7, 99G.9(2), and 99G.21.

531—1.8(99G) Location of ticket sales by retailers. Tickets may be sold on premises specified on a lottery license. Tickets may be sold on premises where alcoholic beverages, beer, or wine are sold or served pursuant to Iowa Code chapter 123. Tickets may not be sold by a retailer through the mail or by any technological means except as the lottery may provide or authorize.

This rule is intended to implement Iowa Code Supplement section 99G.30.

531—1.9(99G) Distribution of tickets by lottery authority. The lottery itself may sell lottery tickets. Ticket sales may be made by the lottery at any location or event deemed appropriate by the lottery. The lottery may distribute lottery tickets or shares for promotional purposes.

This rule is intended to implement Iowa Code Supplement sections 99G.21 and 99G.30.

531—1.10(99G) Ticket purchase restrictions. Tickets shall not be purchased by those persons designated in Iowa Code Supplement section 99G.31(2) “g” and “h” or by the assistant attorney general assigned to

the lottery. The lottery may restrict the purchase of tickets by lottery contractors through contractual provisions if the lottery determines that restrictions are appropriate.

This rule is intended to implement Iowa Code Supplement sections 99G.2(3) and 99G.31(2).

531—1.11(99G) Employee incentive programs. The lottery may design lottery employee incentive programs intended to increase lottery revenues. All employee incentive programs shall be approved by the board before implementation.

This rule is intended to implement Iowa Code Supplement section 99G.10(5).

531—1.12(99G) Advertising. Advertising for lottery games may include but is not limited to print advertisements, Internet, radio and television advertisements, billboards, and point-of-purchase display materials. Promotional and advertising items may be produced and distributed to the public, vendors, and retailers.

This rule is intended to implement Iowa Code Supplement sections 99G.2, 99G.7, and 99G.21.

531—1.13(99G) Promotional agreements with businesses. The chief executive officer may enter into agreements with business entities for the purpose of promoting any lottery game. Promotional agreements may require a business entity to fund or provide prizes or advertising.

This rule is intended to implement Iowa Code Supplement sections 99G.2, 99G.7, and 99G.21.

531—1.14(99G) Agreements for the sale of advertising. The lottery may enter into agreements with other units of state government or with individuals, corporations, or other entities outside of state government for the purpose of selling advertising space on such items as lottery tickets or equipment and in lottery publications or promotional materials. The lottery may also enter into such agreements to sell lottery tickets or merchandise marked with the lottery logo.

This rule is intended to implement Iowa Code Supplement sections 99G.2, 99G.7, 99G.9, and 99G.21.

531—1.15 to 1.27 Reserved.

531—1.28(99G) Promotional use of tickets by persons without lottery licenses. Other than the lottery, no person, business, or other organization may sell lottery tickets unless licensed by the lottery. Tickets may, however, be given away for promotional purposes. Tickets may be given away for promotional purposes in conjunction with the required purchase of a product or service or an admission fee without violating this provision provided that the actual cost of the product or service or admission fee is not calculated to include the ticket price, and the promotion is not designed, intended, or conducted to circumvent the lottery's licensing requirements.

This rule is intended to implement Iowa Code Supplement sections 99G.9, 99G.25, and 99G.30.

531—1.29(99G) Employee background investigation. The lottery shall require a background investigation by the department of public safety division of criminal investigation in connection with the employment of lottery personnel. Background investigations to be conducted are as follows:

1.29(1) Standard background investigations. The lottery may require a standard division of criminal investigation background investigation of any prospective lottery employee, consisting of a state criminal history background check, work history, and financial review.

1.29(2) Sensitive position background investigations. The board shall identify those sensitive positions that require full background investigations. Such positions shall include, at a minimum, any officer of the lottery, and any employee with operational management responsibilities, security duties, or system maintenance or programming responsibilities related to the lottery's data processing or network hardware, software, communication, or related systems. In addition to a work history and financial review, a full background investigation may include a national criminal history record check through the Federal Bureau of Investigation. The screening of employees through the Federal Bureau of Investigation shall be conducted by submission of fingerprints through the state criminal history record repository to the Federal Bureau of Investigation.

1.29(3) *Alternative sources for investigations.* In lieu of a division of criminal investigation standard or full background investigation, or any component thereof, the chief executive officer, at the chief executive officer's discretion and in cooperation with the division of criminal investigation, may accept a report furnished by the division of criminal investigation based on information furnished by authorities in another state of a recent, comparable investigation conducted by said authorities communicated between law enforcement agencies, which may be updated with any information reflecting changes during the interim between the Iowa and the earlier investigations.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3) and 99G.10.

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CHAPTER 2 PURCHASING

[Prior to 1/14/87, Iowa Lottery Agency[526] Ch 5]
[Prior to 9/17/03, see 705—Ch 4]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

531—2.1(99G) Applicability of competitive bidding. All “major procurements” shall be obtained as a result of competitive bidding, except in cases where a single vendor has an exclusive right to offer a particular product or service. Major procurements include consulting agreements and the major procurement contract with a business organization for the printing of tickets or for the purchase or lease of equipment or services essential to the operation of a lottery game.

Items, including goods or services, other than major procurements, that are expected to cost in the aggregate in excess of \$50,000 will be obtained as a result of a formal or informal competitive bidding process conducted by the lottery or through the department of administrative services whenever such procurement is in the best interests of the lottery. Items, including goods or services, other than major procurements, that are expected to cost in the aggregate \$50,000 or less may be obtained as a result of an informal competitive bidding process. Items, including goods or services, other than major procurements, expected to cost less than \$50,000 in the aggregate may be obtained in any manner deemed appropriate by the lottery.

Notwithstanding the foregoing, the lottery may exempt an item from competitive bidding if the item is noncompetitive or is purchased in quantities too small to be effectively purchased through competitive bidding; if there is an immediate or emergency need for the item; if the purchase of the item facilitates compliance with set-aside procurement provisions; or if the lottery determines that its best interests will be served by exemption from the bidding process and the item to be purchased is not a major procurement.

This rule is intended to implement Iowa Code Supplement sections 99G.7, 99G.9, 99G.21, and 99G.23.

531—2.2(99G) Methods of obtaining bids or proposals used by the lottery. Formal or informal bids or proposals are to be obtained by one of the following methods. If more than one method is applicable to the purchase of a particular item, the lottery shall choose the method of bidding to be utilized.

2.2(1) Formal bids may be required for any item if cost is the major criterion for selection. If cost is the major criterion for selection, formal bids shall be required for all items costing in the aggregate more than \$50,000.

The lottery shall prepare a written invitation-to-bid document and shall send it via the United States Postal Service or electronic mail to selected vendors in the business of providing the goods or services sought by the lottery. Goods or services may also be obtained by the lottery using reverse auction methods via the lottery’s Internet Web site.

The invitation to bid shall contain the due date and time of the bid opening, a complete description of the item needed, and any other necessary or proper items.

Formal bids, other than major procurement sealed bids, received prior to the submission deadline set in the bidding document shall be made available to any interested party on the date and hour designated on the bid form. As the bids are opened they will be tabulated, and the results of the tabulation shall be made available to any interested party. The original bids and the tabulations will be maintained at the lottery for one year following the date on which the bids were opened.

An award shall be made within 60 calendar days from the date of the bid opening unless a different time frame is stated by the lottery in the invitation to bid or subsequently agreed to by the vendors. The price quoted by the vendors shall remain binding throughout the applicable time period. If an award is not made within the applicable time frame, all bids shall be deemed rejected.

2.2(2) Informal bids may be required for any item if cost is the major criterion for selection and if the item is expected to cost in the aggregate \$50,000 or less. Informal bids may be obtained by the lottery through use of a written bid form, over the telephone, via facsimile transmission, or in electronic format, including over the Internet or through electronic mail. When requesting informal bids, the lottery shall contact selected vendors supplying the goods or services sought by the lottery and shall communicate to

each vendor the date on which bids must be received, a complete description of the item to be purchased, and the time period during which the bid must remain valid. Goods or services may also be obtained by the lottery using reverse auction methods via the lottery's Internet Web site.

Written informal bids shall be opened as received, and informal telephone, facsimile, or electronic bids shall be recorded as received. If a bid is received over the telephone, a telephone bid form shall be used to record the bid received. If an electronic bid is received, a screen print shall be used to record the bid received. Following the submission deadline, the lottery shall tabulate the bids received and make the award. The bids and the tabulations shall be available to interested parties after the submission deadline and shall be maintained by the lottery for one year following the submission deadline.

If an award is not made within the time frame indicated by the lottery when requesting bids, all bids shall be deemed rejected.

2.2(3) Whenever a requirement exists for an item or a major procurement and cost may not be the sole criterion for selection, the lottery may issue a request for proposals. The purpose of a request for proposals is to provide the vendor with sufficient information about the lottery's requirements and goals to allow the vendor to propose a solution to the lottery's requirements.

The lottery shall prepare a written request for proposals and shall send the proposal via the United States Postal Service or electronic mail to selected vendors in the business of supplying the goods or services sought by the lottery.

The lottery requires that bids submitted in response to a request for proposals in a major procurement for award of a contract for the printing of tickets or for the purchase or lease of equipment or services essential to the operation of a lottery game be submitted as sealed bids. The contents of sealed bids shall be made available to any interested party at the time designated in the request for proposals. A bidder shall identify with clear markings the pages, sections, or documents submitted as part of a proposal package that the bidder claims are exempt from disclosure because they contain sensitive business or trade secret information.

To ensure the fairness and integrity of the evaluation process, the lottery may elect to evaluate and score any of the technical, financial, security, and marketing components of major procurement sealed bid proposals prior to opening and integrating the scoring of the pricing component. When scoring has been completed, the evaluation team shall prepare a recommendation report for an award and, if applicable, for rejection of any or all proposals under consideration. The recommendation report shall be submitted to the chief executive officer and the lottery board for such action as the chief executive officer and board may deem appropriate. The report shall be made available to any interested person immediately upon transmittal to the chief executive officer and the board. Prior to making an award, the board and chief executive officer shall receive and consider the results of a background investigation conducted by the department of public safety division of criminal investigation.

An award shall be made within 60 calendar days from the date of the proposal opening unless a different time frame is stated by the lottery in the request for proposal or subsequently agreed to by the vendors. The terms quoted by the vendor shall remain binding throughout the applicable time frame. If an award is not made within the applicable time frame, all proposals shall be deemed rejected and not binding.

At a minimum, a request for proposals shall address the following criteria: the need for a proposal conference; the purpose and background of the request; important dates in the proposal and the award process including the submission deadline; administrative requirements for submitting the proposal and the format required by the lottery; the scope of the work to be performed and any specific requirements which the vendor must meet; and any contractual terms and conditions which the lottery anticipates may affect the terms of the vendor's proposal.

This rule is intended to implement Iowa Code section 72.3 and Iowa Code Supplement sections 99G.7, 99G.9, and 99G.21.

531—2.3(99G) Items purchased through the department of administrative services. Goods and services may be obtained by the lottery through the department of administrative services whenever procurement through administrative services is in the best interests of the lottery. Items procured through administrative services may be obtained by administrative services in any manner deemed appropriate by administrative services.

This rule is intended to implement Iowa Code Supplement sections 99G.7, 99G.9, 99G.21, and 99G.23.

531—2.4(99G) Advertising solicitations. Formal bids and requests for proposals issued by the lottery shall be advertised in a daily paper in Iowa. The advertisement shall indicate that it is a notice to prospective bidders, contain the bid due date and time of opening, describe the items to be purchased, and provide the name, address and telephone number of the person to be contacted to obtain official bidding documents.

This rule is intended to implement Iowa Code Supplement sections 99G.7, 99G.9, 99G.21, and 99G.23.

531—2.5(99G) Contract purchases. The lottery may enter into contract purchase agreements for items, groups of items, or services. Contract purchase agreements are subject to the competitive bidding requirements previously outlined where applicable.

This rule is intended to implement Iowa Code Supplement sections 99G.7, 99G.9, 99G.21, and 99G.23.

531—2.6(99G) Blanket purchase agreements. If the lottery foresees a requirement for frequent purchases of off-the-shelf items, the lottery may establish blanket purchase agreements. A blanket purchase agreement is a formally approved charge account that is designed to reduce paperwork and the number of checks issued. Blanket purchase agreements are subject to the competitive bidding requirements previously outlined where applicable.

This rule is intended to implement Iowa Code Supplement sections 99G.7, 99G.9, 99G.21, and 99G.23.

531—2.7(99G) Prospective vendor selection.

2.7(1) Any firm or business legally conducting business within Iowa may request placement on the approved vendor list for a particular service or commodity by filing a vendor application form with the lottery. The lottery may mail copies of solicitation documents to vendors on the list for a particular item or to any other vendor that the lottery chooses to contact. A vendor may be refused placement on the list or suspended or permanently removed from the list for any of the following reasons: failure to respond to three consecutive solicitations; failure to deliver within specified delivery dates; failure to deliver in accordance with specifications; attempts to influence the decision of any state employee involved in the procurement process; evidence of agreements by the vendor to restrain trade or impede competitive bidding; and any other activities of the vendor which the lottery determines would render the vendor unsuitable.

The lottery shall notify a vendor in writing prior to refusing placement on the list, suspending the vendor from the list, or permanently removing the vendor from the list. The vendor shall be provided a reasonable opportunity to explain and cure any misconduct identified by the lottery. If the lottery ultimately refuses placement on the list or removes the vendor from the list, the vendor may appeal the lottery's action to the lottery board pursuant to the criteria for vendor appeals contained in these rules.

2.7(2) The lottery shall select vendors to receive solicitation documents based on the lottery's knowledge of the vendors in the particular market. The initial vendor selection shall be designed to promote the competitive bidding process, the set-aside procurement programs, and the best interests of the lottery. The lottery shall also provide solicitation documents to qualified vendors upon request when the request is made during the solicitation period. The vendor is solely responsible for ensuring that solicitation documents are received by the vendor.

This rule is intended to implement Iowa Code Supplement sections 99G.7, 99G.9, 99G.21, and 99G.23.

531—2.8(99G) Bids and proposals to conform with specifications. All bids and proposals must conform to the specifications indicated by the lottery. Bids and proposals that do not conform to the specifications stated may be rejected. The lottery reserves the right to waive deficiencies in the bids or proposals if in the judgment of the lottery its best interests would be served by the waiver.

This rule is intended to implement Iowa Code Supplement sections 99G.7, 99G.9, 99G.21, and 99G.23.

531—2.9(99G) Time of delivery. When evaluating bids or proposals, the lottery may consider the time of delivery when determining the successful vendor.

This rule is intended to implement Iowa Code Supplement sections 99G.7, 99G.9, 99G.21, and 99G.23.

531—2.10(99G) Cash discounts. When evaluating bids or proposals, the lottery may consider cash discounts.

This rule is intended to implement Iowa Code Supplement sections 99G.7, 99G.9, 99G.21, and 99G.23.

531—2.11(99G) Tie bids. The lottery shall resolve ties among bids or proposals which are equal in all respects by drawing lots unless only one of the tied bidders is an Iowa business. If only one of the bidders tied for an award is an Iowa business, the Iowa business shall be given preference over all tied out-of-state businesses.

If it is necessary to draw lots, the drawing shall be held in the presence of the vendors who submitted the tied bids or proposals whenever practical. If the tied vendors are not present, the drawing shall be held in front of at least two persons, and the lottery shall document the drawing.

This rule is intended to implement Iowa Code Supplement sections 99G.7, 99G.9, 99G.21, and 99G.23.

531—2.12(99G) Time of submission. All formal bids and proposals shall be submitted by the vendor in sufficient time to actually reach the lottery prior to the submission deadline specified in the bid document. All informal bids shall be submitted by the vendor in time to reach the lottery prior to the submission deadline indicated by the lottery. Formal bids and proposals shall be marked by the lottery with the date and time received by the lottery. Formal bids and proposals received after the submission deadline shall be returned to the vendor unopened. All vendors to whom invitations to bid or requests for proposals are sent shall be notified of any changes in submission deadline.

If a formal bid or request for proposals is canceled prior to the submission deadline, any responses already received shall be returned unopened. If an informal bid is canceled prior to the submission deadline, any bids already received shall be destroyed.

This rule is intended to implement Iowa Code Supplement sections 99G.7, 99G.9, 99G.21, and 99G.23.

531—2.13(99G) Modification or withdrawal of bids. Bids or proposals may be modified or withdrawn prior to the time and date set for the bid or proposal opening. Modifications or withdrawals shall be in writing and delivered in a sealed envelope that properly identifies the correct bid or proposal to be modified or withdrawn. A bid or proposal may be withdrawn after opening only with the approval of the lottery if the lottery finds that an honest error was made by the vendor that will cause undue financial hardship to the vendor and that will not cause undue financial hardship or inconvenience to the lottery.

This rule is intended to implement Iowa Code Supplement sections 99G.7, 99G.9, 99G.21, and 99G.23.

531—2.14(99G) Financial security. The lottery may require bid security, litigation security, and performance security on formal bids or proposals. When required, security may be by certified check, certificate of deposit, letter of credit made payable to the lottery, or any other form specified by the lottery.

This rule is intended to implement Iowa Code Supplement sections 99G.7, 99G.9, 99G.21, 99G.22, and 99G.23.

531—2.15(99G) Rejection of bids and proposals. The lottery reserves the right to reject any or all bids or proposals. Bids and proposals may be rejected because of faulty specifications, abandonment of the project, insufficient funds, evidence of unfair or flawed bidding procedures, failure of a vendor to meet the lottery's requirements, or for any other reason if the lottery determines that its best interests will be served by rejecting any or all bids. Following the rejection of bids, new bids may be requested by the lottery at any time deemed convenient by the lottery.

This rule is intended to implement Iowa Code Supplement sections 99G.7, 99G.9, 99G.21, 99G.22, and 99G.23.

531—2.16(99G) Background and informational statements.

2.16(1) *Criminal history and background checks.*

a. All bidders for major procurements, as defined in Iowa Code Supplement section 99G.3, and any other bidders that the chief executive officer, in the chief executive officer's sole discretion, may require (hereinafter "bidder") shall submit to lottery business entity criminal history checks and background investigations (hereinafter "bidder investigations") as conditions for submission of a bid.

b. Bidders for major procurements shall be required to describe their organizational structure, identify key personnel, and subject key personnel to lottery bidder key personnel investigations.

c. Bidders that are not bidders for major procurements may be required to describe their organizational structure, identify key personnel, and subject key personnel to lottery bidder key personnel investigations.

d. For all bidders, any change in key personnel during the bidding process or during the contract term must be reported to the lottery authority before the change occurs. Replacement personnel will be subject to investigation.

e. If, during the course of any investigation, it is determined that either a bidder for a major procurement or any persons employed by or associated with a bidder for a major procurement who are the subjects of key personnel investigations in accordance with subrule 2.16(3) have been convicted of any state or federal felony related to the security or integrity of the lottery in Iowa or any other jurisdiction, the bidder will be automatically disqualified from the selection process without further investigation.

2.16(2) Bidder investigations.

a. *General provisions.* The Iowa lottery major procurement business entity background investigation form (Class L form) must be completed for each bid submitted in response to a lottery major procurement solicitation.

The Class L form shall be posted on the lottery's Web site and is intended to serve both as a vehicle for collection of information pertaining to bidders and as an overview of the scope of the bidder investigations to be conducted.

The department of public safety division of criminal investigation shall utilize the information provided in the Class L form as the basis for developing the initial scope of the bidder investigation and due diligence to be conducted with respect to a bidder. Should the division of criminal investigation desire to pursue avenues of inquiry beyond the parameters of the information requested by and furnished in the Class L form, the division of criminal investigation shall consult with the lottery chief executive officer, or the chief executive officer's designee, who shall determine the scope and extent of any further investigation to be pursued.

b. *Class L form requirements.* The Class L form shall solicit the following information:

(1) The names, addresses, and telephone numbers of all persons who gathered information and prepared the Class L form on behalf of the bidder; the name, address and type of business entity on whose behalf the Class L form is furnished; and the name and telephone number of a contact person for purposes of the procurement.

(2) The location of the bidder's business records; the state and date of incorporation or establishment of the bidder; the federal and state employer identification numbers of the bidder; the names and addresses of any parent companies, subsidiaries, or affiliates of the bidder; whether the bidder's stock is publicly or closely held; and a copy of the articles of incorporation or charter, bylaws, organizational chart, corporate certificate, or partnership agreement of the bidder, as may be applicable.

(3) The following information for each corporate officer and director and, if not a publicly held corporation, each partner (general or limited) or stockholder holding 5 percent or more of the outstanding stock of the bidder: name; positions held; business and residence addresses and telephone numbers; date of birth; social security number; percentage of stock held; amount of compensation received from the bidder in excess of \$10,000, including but not limited to salary or wages, director's fees, and stock options and dividends; and designation as to whether the named person will be empowered with signature authority to legally bind the bidder in the context of the procurement process with respect to which the disclosure of information is furnished.

(4) The identity of any other persons not named in subparagraph (3) above who will be empowered with signature authority to legally bind the bidder in the context of the procurement process with respect to which the disclosure of information is furnished.

- (5) If the bidder is a publicly held corporation, a copy of the bidder's most recent annual report.
- (6) The name and address of each officer, director, partner or stockholder actively involved in the conduct of the day-to-day operation of the bidder.
- (7) The name and address of the internal certified public accountant employed by the bidder and the name, address, and telephone number of the external certified public accountant employed by the bidder.
- (8) A list of all criminal proceedings and civil proceedings predicated in whole or part on alleged criminal activity involving the bidder during the ten-year period immediately preceding the submission date of the Class L form.
- (9) Whether the bidder or any subsidiary, parent, intermediary, holding company or related corporation of the bidder is or has been the subject of a criminal or grand jury investigation, or has been indicted, convicted, or arrested for any criminal offense within the last seven years. An explanation of any such occurrence shall be furnished and shall include the dates of the occurrences, any governmental agencies involved, and descriptions of the nature and the dispositions of the investigations, indictments, convictions, or arrests.
- (10) Whether any officer or director of the bidder or any subsidiary, parent, intermediary, holding company or related corporation of the bidder is or has ever been the subject of a criminal or grand jury investigation, or has been indicted, convicted, or arrested for any criminal offense. An explanation of any such occurrences shall be furnished and shall include the dates of the occurrences, any governmental agencies involved, and descriptions of the nature and the dispositions of the investigations, indictments, convictions, or arrests.
- (11) A list of any proceedings within the last five years involving allegations against the bidder or its officers or directors of antitrust violations, trade regulation violations, security judgments, and insolvency proceedings.
- (12) A list of any license denials, suspensions, or revocations within the last seven years involving any officers or directors of the bidder.
- (13) Whether the bidder has sustained a loss within the last ten years in which an insurance payment of \$50,000 or more was received; if so, a detailed explanation listing the nature, date and disposition of the incident and the name and address of the insurance company that made the settlement.
- (14) Whether the bidder sustained a loss by fire in which arson was suspected within the past ten years; if so, a detailed explanation listing circumstances surrounding the fire and the name and address of the investigating agency should also be included.
- (15) A list of any application to or any permit, license, certificate or qualification from a licensing agency in Iowa or any other state or other jurisdiction in connection with any gambling venture in which the bidder or any subsidiary, parent, intermediary, holding company, or related corporation of the bidder has been involved. The list should include the date of application; the name and address of the licensing agency; the type and number of the license; and the disposition (approval, rejection, or withdrawal) of any such application. For purposes of this paragraph, "gambling venture" means all types of racing and gaming activities, including but not limited to dog track, horse track, greyhound racing, horse racing, lottery, casino, and pari-mutuel operations.
- (16) Whether the bidder has ever petitioned for or declared bankruptcy or insolvency within the last seven years; if so, the filing date, docket number, and name and address of the court in which the petition or declaration was filed, and the name and address of the filing party and of the trustee should also be included.
- (17) Copies of any audited financial statements and auditors' reports for the bidder and any subsidiaries for each entity's last fiscal year or, if the entity does not normally have its financial statements audited, copies of unaudited financial statements for the last two fiscal years.
- (18) A list of all holding companies, business organizations, other business entities, or individuals that hold any financial interest of 5 percent or more in the bidder. This list shall describe the nature, type, terms, covenants, and priorities of any outstanding bonds, loans, mortgages, trust deeds, notes, debentures, or other forms of indebtedness issued or executed, which mature more than one year from the date of issuance.

(19) A list and copies of all notes and mortgages or other instruments of outstanding long-term debt of the bidder, with the name and address of the entity owed and the amount and purpose of each such mortgage or debt.

(20) A list of all dormant or shell company names used or owned by the bidder within the past ten years.

(21) A list of any financial or ownership interest in any gambling venture in any jurisdiction that the bidder and any parent or subsidiary owns or holds and a description of the nature and the percentage of each interest owned or held. For purposes of this paragraph, “gambling venture” means all types of racing and gaming activities, including but not limited to dog track, horse track, greyhound racing, horse racing, lottery, casino and pari-mutuel operations.

(22) A list of all political contributions made by or on behalf of the bidder and any parent or subsidiary to any candidate for any office or position in any jurisdiction in the state of Iowa during the last two years. The list should include the candidate’s name, the office or position for which the candidate is or was running, and the amount and date of the contribution.

(23) A list of all Iowa lobbyists and political consultants utilized by the bidder and any parent or subsidiary of the bidder, the names of individuals employed by the bidder and any parent or subsidiary who act as liaisons with the lobbyists or political consultants, and descriptions of fee arrangements made with the lobbyists or political consultants. Also included should be a statement identifying any cash fund established with respect to an Iowa lobbyist or political consultant, any pledge of any items of monetary value to a lobbyist or political consultant as a reward for obtaining commission approval of a contract, and any cash transferred in any manner to an attorney’s trust account for disbursement to an Iowa lobbyist or political consultant.

(24) An organizational chart of the bidder showing its relationship to existing parent, subsidiary, and affiliated companies.

(25) A list of all persons or business entities with which the bidder has contracts or agreements worth \$1 million or more that exceed one year in duration.

(26) Authorization, in any form or forms approved by the division of criminal investigation and executed by a competent signatory of the bidder, for a review, full disclosure, and release of any and all records concerning the bidder, including but not limited to verification of filing and outstanding balance status of federal income tax returns.

2.16(3) Bidder key personnel investigations.

a. General provisions. The chief executive officer may require a full lottery Class L-1 department of public safety division of criminal investigation background investigation for any person identified as an officer, director, trustee, partner, sole proprietor, employee or other person by the lottery or the division of criminal investigation as a key person in a sensitive position or relationship with a bidder in a major procurement, as defined in rule 531—2.1(99G).

The lottery Class L-1 form shall be posted on the lottery’s Web site, and is intended to serve as a vehicle for collection of background information and as an overview of the scope of the background investigations to be conducted.

The division of criminal investigation shall utilize the information provided in the lottery Class L-1 form as the basis for developing the initial scope of the key personnel investigation and due diligence to be conducted. Should the division of criminal investigation desire to pursue avenues of inquiry beyond the parameters of the information requested by and furnished in the lottery Class L-1 form, the division of criminal investigation shall consult with the chief executive officer, or the chief executive officer’s designee, who shall determine the scope and extent of any further investigation to be pursued.

b. Class L-1 form requirements. The lottery Class L-1 form shall solicit the following information about key personnel selected to be investigated (hereinafter “subject”):

(1) The subject’s name, business and residence addresses and telephone numbers, date and place of birth, social security number, height, weight, eye color, sex, and any past or present aliases used.

(2) The name and address of the subject’s present employer, the subject’s job title and a summary of duties, and the subject’s supervisor.

(3) The subject’s citizenship or alien residence status.

(4) A ten-year residential history of the subject, including addresses, dates, ownership or rental status, and landlord's or mortgage holder's name(s), address(es), and telephone number(s).

(5) The subject's marital status and, if applicable, the subject's spouse's full name, including maiden (if applicable), business and residence addresses and telephone numbers, date and place of birth, occupation, and the name and address of the spouse's present employer.

(6) Whether the subject has been divorced, legally separated, or had a marriage annulled and, if applicable, the name, birth date, and current address, if known, of the subject's spouse or former spouse, the date and place of any applicable judicial order, and the nature of the action.

(7) The full names, including maiden (if applicable), dates of birth, and addresses of all the subject's children, including stepchildren and adopted children.

(8) The full names, including maiden (if applicable), dates of birth, most recent occupations, or retired status (if appropriate), and addresses of all parents, parents-in-law, legal guardians, and siblings of the subject. If any such person is deceased, that person's date of death, last address, and last occupation should also be given.

(9) The subject's educational background, including the names, types, and locations of any schools attended, dates of attendance, and graduation status, certificates, or degrees obtained. For purposes of this paragraph, "schools" includes all secondary, postsecondary, graduate, and professional educational institutions.

(10) If applicable, information regarding the subject's military service, including dates of service, type of discharge, and details of any court-martial proceedings in which the subject was involved.

(11) A list of all political contributions made by or on behalf of the subject to any candidate for any office or position in any jurisdiction in the state of Iowa during the last two years. Such list should include the candidate's name, the office or position for which the candidate ran or is running, and the amount and date of the contribution.

(12) The state, license number, date of expiration, and name and address shown on the subject's current driver's license.

(13) A list of three personal references, including a name, address, and telephone number for each reference as well as a brief statement describing the relationship between the subject and each reference and how long the subject has been acquainted with each reference.

(14) A summary of the subject's employment record for the last ten years, including names, addresses, and telephone numbers of prior employers, dates of employment, and positions held.

(15) A list of personal litigation during the last ten years other than divorce, legal separation, or annulment proceedings to which the subject has been a party.

(16) A list of any litigation within the past ten years wherein a business entity owned by the subject, or in which the subject held an ownership interest or served as an officer or director, was a defendant and in which the defendant's conduct was allegedly criminal.

(17) A description of any known criminal investigations and dispositions thereof regarding the subject or any business entity in which the subject holds or has held an ownership interest of 5 percent or more. The description should include the name and address of the investigating agency, the nature of the investigation, and the approximate dates on which the investigation commenced and concluded.

(18) A list of any arrest, indictment, charge or conviction, or any naming as an unindicted party or coconspirator in a criminal offense involving the subject or any of the following family members of the subject: children, including stepchildren and adopted children; parents; parents-in-law; legal guardians; or siblings. The list should include the name of the family member (if applicable); the nature of the charge, conviction or proceeding; the name and address of the governmental agency or court involved; and the disposition.

(19) A list of any pardon for any criminal offense in Iowa or any other jurisdiction pertaining to the subject or any of the following family members of the subject: children, including stepchildren and adopted children; parents; parents-in-law; legal guardians; or siblings. This list should include the name of the family member (if applicable), the offense, the reason for and date of the pardon, and the name and address of the pardoning authority.

(20) A list of any personal or business loss within the past ten years involving an insurance payment of more than \$10,000.

(21) A list of and explanation regarding any personal or business property owned by the subject that was destroyed by fire or an explosion.

(22) A list of any application to and any permit, license, certificate, or qualification from a licensing agency in Iowa or any other state or other jurisdiction in connection with any gambling venture in which the subject is or has been involved. The list should include the date of application, the name and address of the licensing agency, the type and number of licenses, and the disposition (approval, rejection or withdrawal) of any such application, together with a description of any financial or ownership interest in any such gambling venture. For purposes of this paragraph, “gambling venture” means all types of racing and gaming activities, including but not limited to dog track, horse track, greyhound racing, horse racing, lottery, casino and pari-mutuel operations.

(23) A description of the extent of involvement, if any, the subject has or anticipates having in participation in the management or operation of the bidder.

(24) Information regarding the filing and status of state and federal income tax returns for the previous three years. Copies of said returns should also be included.

(25) A statement regarding any financial or ownership interest of 5 percent or more that the subject has or had in any active or dormant companies and any failed or abandoned business projects in which the subject was invested in 5 percent or more of the business project or was a significant planner, to the extent that such interest or interests are within the scope of a gambling venture or with an Iowa lottery vendor.

(26) Such sworn consents and authorizations as may be requested by the division of criminal investigation to gain access to records pertaining to the subject for use in investigating the information furnished by the subject in the lottery Class L-1 form and any derivation thereof, including without limitation the subject’s federal and state tax records and any other records, public or private, including confidential and criminal history records.

2.16(4) *Alternative sources for business entity investigations.* In lieu of a division of criminal investigation lottery business entity investigation or any component thereof, the lottery chief executive officer, at the chief executive officer’s discretion and in cooperation with the division of criminal investigation, may accept a report furnished by authorities in another state of a recent, comparable investigation conducted by said authorities communicated between law enforcement agencies, which may be updated with any information reflecting changes during the interim between the Iowa and the earlier investigations.

This rule is intended to implement Iowa Code Supplement sections 99G.7, 99G.9, 99G.21, 99G.22, and 99G.23.

531—2.17(99G) Vendor appeals.

2.17(1) *Filing vendor appeal.* Any vendor whose bid or proposal has been timely filed and who is aggrieved by the award of the lottery may file a written notice of appeal of the procurement decision with the Iowa Lottery, 13001 University Avenue, Clive, Iowa 50325-8225, within five business days of the date of the award. The notice of appeal must actually be received at this address within the time frame specified to be considered timely. The notice of appeal shall state the grounds upon which the vendor challenges the lottery’s award.

2.17(2) *Presiding officer.* Upon receipt of a notice of a vendor appeal, the chief executive officer shall appoint an administrative law judge within the administrative hearings division of the department of inspections and appeals to serve as presiding officer, who would then issue a proposed ruling that the chief executive officer may hear on appeal.

2.17(3) *Hearing.* Where feasible, vendor appeals shall be conducted in accordance with 531—Chapter 5. In the case of conflict, the rules and procedures set forth in Chapter 2 control for vendor appeals submitted to the lottery. The presiding officer shall send a written notice of the date, time and location of the appeal hearing to the aggrieved vendor or vendors. The presiding officer shall hold a hearing on the vendor appeal within 60 days of the date the notice of appeal was received by the lottery, except that the administrative law judge has the ability to extend this duration where the administrative law judge determines good cause necessitates an extension.

2.17(4) *Discovery.* The parties shall serve any discovery requests upon the other parties at least 30 days prior to the date set for hearing. The parties must serve responses to discovery at least 20 days prior to the date set for the hearing.

2.17(5) *Witnesses and exhibits.* The parties shall contact each other regarding witnesses and exhibits at least ten days prior to the time set for the hearing. The parties must meet prior to the hearing regarding the evidence to be presented in order to avoid duplication or the submission of extraneous materials.

2.17(6) *Contents of decision.* The administrative law judge shall issue and serve upon all parties a written proposed decision that includes findings of fact and conclusions of law stated separately. The decision shall be based on the record of the appeal and shall conform with the requirements of Iowa Code chapters 17A and 99G.

2.17(7) *Status of ruling.* The ruling of the presiding officer constitutes a proposed ruling which may be appealed to the lottery's chief executive officer. The written decision of the chief executive officer on a vendor appeal constitutes a final decision of the lottery, which may be further appealed in accordance with Iowa Code section 17A.19.

2.17(8) *Stay of agency action for vendor appeal.*

a. Any party appealing the issuance of a notice of intent to award a contract may petition the presiding officer for a stay of the award pending its review. The petition for stay shall be filed with the notice of appeal and shall state the reasons justifying a stay. Any decision issued by a presiding officer regarding a stay may be appealed to the chief executive officer.

b. Any party adversely affected by a final decision and order may petition the chief executive officer for a stay of the agency decision and order pending judicial review. The petition for stay shall be filed with the chief executive officer within ten days of receipt of the final decision and order and shall state the reasons justifying a stay.

c. The presiding officer or chief executive officer may grant a stay upon a conclusion that the movant has satisfied the standards for the grant of a stay included in rule 531—5.29(17A) and Iowa Code section 17A.19(5).

This rule is intended to implement Iowa Code sections 99G.9, 99G.21, 99G.23, and 99G.37.

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¹ Effective date of 5.8 delayed 70 days by the Administrative Rules Review Committee at its meeting held February 11, 1986.

CHAPTER 3 PROCEDURE FOR RULE MAKING

[Prior to 9/17/03, see 705—Ch 14]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

531—3.1(17A) Applicability. Except to the extent otherwise expressly provided by statute, all rules adopted by the Iowa lottery authority are subject to the provisions of Iowa Code chapter 17A, the Iowa administrative procedure Act, and the provisions of this chapter.

531—3.2(17A) Advice on possible rules before notice of proposed rule adoption. In addition to seeking information by other methods, the lottery may, before publication of a Notice of Intended Action under Iowa Code section 17A.4(1)“a,” solicit comments from the public on a subject matter of possible rule making by the lottery by causing notice to be published in the Iowa Administrative Bulletin of the subject matter and indicating where, when, and how persons may comment.

531—3.3(17A) Public rule-making docket.

3.3(1) *Docket maintained.* The lottery shall maintain a current public rule-making docket.

3.3(2) *Anticipated rule making.* The rule-making docket shall list each anticipated rule-making proceeding. A rule-making proceeding is deemed “anticipated” from the time a draft of proposed rules is distributed for internal discussion within the lottery. For each anticipated rule-making proceeding the docket shall contain a listing of the precise subject matter which may be submitted for consideration by the board for subsequent proposal under the provisions of Iowa Code section 17A.4(1)“a,” the name and address of agency personnel with whom persons may communicate with respect to the matter, and an indication of the present status within the lottery of that possible rule. The lottery may also include in the docket other subjects upon which public comment is desired.

3.3(3) *Pending rule-making proceedings.* The rule-making docket shall list each pending rule-making proceeding. A rule-making proceeding is pending from the time it is commenced, by publication in the Iowa Administrative Bulletin of a Notice of Intended Action pursuant to Iowa Code section 17A.4(1)“a,” to the time it is terminated, by publication of a Notice of Termination in the Iowa Administrative Bulletin or the rule becoming effective. For each rule-making proceeding, the docket shall indicate:

- a. The subject matter of the proposed rule;
- b. A citation to all published notices relating to the proceeding;
- c. Where written submissions on the proposed rule may be inspected;
- d. The time during which written submissions may be made;
- e. The names of persons who have made written requests for an opportunity to make oral presentations on the proposed rule, where those requests may be inspected, and where and when oral presentations may be made;
- f. Whether a written request for the issuance of a regulatory analysis, or a concise statement of reasons, has been filed; whether such an analysis or statement or a fiscal impact statement has been issued; and where any such written request, analysis, or statement may be inspected;
- g. The current status of the proposed rule and any agency determinations with respect thereto;
- h. Any known timetable for agency decisions or other action in the proceeding;
- i. The date of the rule’s adoption;
- j. The date of the rule’s filing, indexing, and publication;
- k. The date on which the rule will become effective; and
- l. Where the rule-making record may be inspected.

531—3.4(17A) Notice of proposed rule making.

3.4(1) *Contents.* At least 35 days before the adoption of a rule the lottery shall cause Notice of Intended Action to be published in the Iowa Administrative Bulletin. The Notice of Intended Action shall include:

- a. A brief explanation of the purpose of the proposed rule;

- b. The specific legal authority for the proposed rule;
- c. Except to the extent impracticable, the text of the proposed rule;
- d. Where, when, and how persons may present their views on the proposed rule; and
- e. Where, when, and how persons may demand an oral proceeding on the proposed rule if the notice does not already provide for one.

Where inclusion of the complete text of a proposed rule in the Notice of Intended Action is impracticable, the lottery shall include in the notice a statement fully describing the specific subject matter of the omitted portion of the text of the proposed rule, the specific issues to be addressed by that omitted text of the proposed rule, and the range of possible choices being considered by the lottery for the resolution of each of those issues.

3.4(2) *Incorporation by reference.* A proposed rule may incorporate other materials by reference only if it complies with all of the requirements applicable to the incorporation by reference of other materials in an adopted rule that are contained in subrule 3.12(2) of this chapter.

3.4(3) *Copies of notices.* Persons desiring to receive copies of future Notices of Intended Action by subscription must file with the lottery a written request indicating the name and address to which such notices should be sent. Within seven days after submission of a Notice of Intended Action to the administrative rules coordinator for publication in the Iowa Administrative Bulletin, the lottery shall mail or electronically transmit a copy of that notice to subscribers who have filed a written request for either mailing or electronic transmittal with the lottery for Notices of Intended Action. The written request shall be accompanied by payment of the subscription price which may cover the full cost of the subscription service, including its administrative overhead and the cost of copying and mailing the Notices of Intended Action for a period of six months.

531—3.5(17A) Public participation.

3.5(1) *Written comments.* For at least 20 days after publication of the Notice of Intended Action, persons may submit argument, data, and views, in writing, on the proposed rule. Such written submissions should identify the proposed rule to which they relate and should be submitted to the Iowa Lottery Authority, 13001 University Avenue, Clive, Iowa 50325-8225, or the person designated in the Notice of Intended Action.

3.5(2) *Oral proceedings.* The lottery may, at any time, schedule an oral proceeding on a proposed rule. The lottery shall schedule an oral proceeding on a proposed rule if, within 20 days after the published Notice of Intended Action, a written request for an opportunity to make oral presentations is submitted to the lottery by the administrative rules review committee, a governmental subdivision, an agency, an association having not less than 25 members, or at least 25 persons. That request must also contain the following additional information:

- a. A request by one or more individual persons must be signed by each person and include the address and telephone number of each person.
- b. A request by an association must be signed by an officer or designee of the association and must contain a statement that the association has at least 25 members and the address and telephone number of the person signing that request.
- c. A request by an agency or governmental subdivision must be signed by an official having authority to act on behalf of the entity and must contain the address and telephone number of the person signing that request.

3.5(3) *Conduct of oral proceedings.*

a. *Applicability.* This subrule applies only to those oral rule-making proceedings in which an opportunity to make oral presentations is authorized or required by Iowa Code section 17A.4(1) “b” or this chapter.

b. *Scheduling and notice.* An oral proceeding on a proposed rule may be held in one or more locations and shall not be held earlier than 20 days after notice of its location and time is published in the Iowa Administrative Bulletin. That notice shall also identify the proposed rule by ARC number and citation to the Iowa Administrative Bulletin.

c. *Presiding officer.* The lottery authority board, a member of the lottery authority board, or another person designated by the lottery authority board who will be familiar with the substance of the proposed

rule, shall preside at the oral proceeding on a proposed rule. If the lottery authority board does not preside, the presiding officer shall prepare a memorandum for consideration by the board summarizing the contents of the presentations made at the oral proceeding unless the board determines that such a memorandum is unnecessary because the board will personally listen to or read the entire transcript of the oral proceeding.

d. Conduct of proceeding. At an oral proceeding on a proposed rule, persons may make oral statements and make documentary and physical submissions, which may include data, views, comments or arguments concerning the proposed rule. Persons wishing to make oral presentations at such a proceeding are encouraged to notify the lottery at least one business day prior to the proceeding and indicate the general subject of their presentations. At the proceeding, those who participate shall indicate their names and addresses, identify any persons or organizations they may represent, and provide any other information relating to their participation deemed appropriate by the presiding officer. Oral proceedings shall be open to the public and shall be recorded by stenographic or electronic means.

(1) At the beginning of the oral proceeding, the presiding officer shall give a brief synopsis of the proposed rule, a statement of the statutory authority for the proposed rule, and the reasons for the lottery authority board's decision to propose the rule. The presiding officer may place time limitations on individual oral presentations when necessary to ensure the orderly and expeditious conduct of the oral proceeding. To encourage joint oral presentations and to avoid repetition, additional time may be provided for persons whose presentations represent the views of other individuals as well as their own views.

(2) Persons making oral presentations are encouraged to avoid restating matters which have already been submitted in writing.

(3) To facilitate the exchange of information, the presiding officer may, where time permits, open the floor to questions or general discussion.

(4) The presiding officer shall have the authority to take any reasonable action necessary for the orderly conduct of the meeting.

(5) Physical and documentary submissions presented by participants in the oral proceeding shall be submitted to the presiding officer. Such submissions become the property of the lottery.

(6) The oral proceeding may be continued by the presiding officer to a later time without notice other than by announcement at the hearing.

(7) Participants in an oral proceeding shall not be required to take an oath or to submit to cross-examination. However, the presiding officer in an oral proceeding may question participants and permit the questioning of participants by other participants about any matter relating to that rule-making proceeding, including any prior written submissions made by those participants in that proceeding; but no participant shall be required to answer any question.

(8) The presiding officer in an oral proceeding may permit rebuttal statements and request the filing of written statements subsequent to the adjournment of the oral presentations.

3.5(4) Additional information. In addition to receiving written comments and oral presentations on a proposed rule according to the provisions of this rule, the lottery may obtain information concerning a proposed rule through any other lawful means deemed appropriate under the circumstances.

3.5(5) Accessibility. The lottery shall schedule oral proceedings in rooms accessible to and functional for persons with physical disabilities. Persons who have special requirements should contact the Iowa Lottery Authority, 13001 University Avenue, Clive, Iowa 50325-8225, telephone (515)281-7900 in advance to arrange access or other needed services.

[ARC 1954C, IAB 4/15/15, effective 5/20/15]

531—3.6(17A) Regulatory analysis.

3.6(1) Definition of small business. A “small business” is defined in Iowa Code section 17A.4A(7).

3.6(2) Mailing list. Small businesses or organizations of small businesses may be registered on the lottery's small business impact list by making a written application addressed to the Iowa Lottery Authority, 13001 University Avenue, Clive, Iowa 50325-8225. The application for registration shall state:

- a. The name of the small business or organization of small businesses;
- b. Its address;
- c. The name of a person authorized to transact business for the applicant;

d. A description of the applicant's business or organization. An organization representing 25 or more persons who qualify as a small business shall indicate that fact.

e. Whether the registrant desires copies of Notices of Intended Action at cost, or desires advance notice of the subject of all or some specific category of proposed rule making affecting small business.

The lottery may at any time request additional information from the applicant to determine whether the applicant is qualified as a small business or as an organization of 25 or more small businesses. The lottery may periodically send a letter to each registered small business or organization of small businesses asking whether that business or organization wishes to remain on the registration list. The name of a small business or organization of small businesses will be removed from the list if a negative response is received, or if no response is received within 30 days after the letter is sent.

3.6(3) *Time of mailing.* Within seven days after submission of a Notice of Intended Action to the administrative rules coordinator for publication in the Iowa Administrative Bulletin, the lottery shall mail to all registered small businesses or organizations of small businesses, in accordance with their request, either a copy of the Notice of Intended Action or notice of the subject of that proposed rule making. In the case of a rule that may have an impact on small business adopted in reliance upon Iowa Code section 17A.4(2), the lottery shall mail notice of the adopted rule to registered businesses or organizations prior to the time the adopted rule is published in the Iowa Administrative Bulletin.

3.6(4) *Qualified requesters for regulatory analysis—economic impact.* The lottery shall issue a regulatory analysis of a proposed rule that conforms to the requirements of Iowa Code section 17A.4A(2a), after a proper request from:

- a. The administrative rules coordinator;
- b. The administrative rules review committee.

3.6(5) *Qualified requesters for regulatory analysis—business impact.* The lottery shall issue a regulatory analysis of a proposed rule that conforms to the requirements of Iowa Code section 17A.4A(2b), after a proper request from:

- a. The administrative rules review committee;
- b. The administrative rules coordinator;
- c. At least 25 or more persons who sign the request provided that each represents a different small business;

d. An organization representing at least 25 small businesses. That organization shall list the name, address and telephone number of not less than 25 small businesses it represents.

3.6(6) *Time period for analysis.* Upon receipt of a timely request for a regulatory analysis the lottery shall adhere to the time lines described in Iowa Code section 17A.4A(4).

3.6(7) *Contents of request.* A request for a regulatory analysis is made when it is mailed or delivered to the lottery. The request shall be in writing and satisfy the requirements of Iowa Code section 17A.4A(1).

3.6(8) *Contents of concise summary.* The contents of the concise summary shall conform to the requirements of Iowa Code section 17A.4A(4,5).

3.6(9) *Publication of a concise summary.* The lottery shall make available, to the maximum extent feasible, copies of the published summary in conformance with Iowa Code section 17A.4A(5).

3.6(10) *Regulatory analysis contents—rules review committee or rules coordinator.* When a regulatory analysis is issued in response to a written request from the administrative rules review committee, or the administrative rules coordinator, the regulatory analysis shall conform to the requirements of Iowa Code section 17A.4A(2a), unless a written request expressly waives one or more of the items listed in the section.

3.6(11) *Regulatory analysis contents—substantial impact on small business.* When a regulatory analysis is issued in response to a written request from the administrative rules review committee, the administrative rules coordinator, at least 25 persons signing that request who each qualify as a small business or by an organization representing at least 25 small businesses, the regulatory analysis shall conform to the requirements of Iowa Code section 17A.4A(2b).

[ARC 1954C, IAB 4/15/15, effective 5/20/15]

531—3.7(17A,25B) Fiscal impact statement.

3.7(1) A proposed rule that mandates additional combined expenditures exceeding \$100,000 by all affected political subdivisions or agencies and entities which contract with political subdivisions to provide services must be accompanied by a fiscal impact statement outlining the costs associated with the rule. A fiscal impact statement must satisfy the requirements of Iowa Code section 25B.6.

3.7(2) If the lottery determines at the time it adopts a rule that the fiscal impact statement upon which the rule is based contains errors, the lottery shall, at the same time, issue a corrected fiscal impact statement and publish the corrected fiscal impact statement in the Iowa Administrative Bulletin.

531—3.8(17A) Time and manner of rule adoption.

3.8(1) *Time of adoption.* The lottery shall not adopt a rule until the period for making written submissions and oral presentations has expired. Within 180 days after the later of the publication of the Notice of Intended Action, or the end of oral proceedings thereon, the lottery shall adopt a rule pursuant to the rule-making proceeding or terminate the proceeding by publication of a notice to that effect in the Iowa Administrative Bulletin.

3.8(2) *Consideration of public comment.* Before the adoption of a rule, the lottery shall consider fully all of the written submissions and oral submissions received in that rule-making proceeding or any memorandum summarizing such oral submissions, and any regulatory analysis or fiscal impact statement issued in that rule-making proceeding.

3.8(3) *Reliance on agency expertise.* Except as otherwise provided by law, the lottery may use its own experience, technical competence, specialized knowledge, and judgment in the adoption of a rule.

531—3.9(17A) Variance between adopted rule and published notice of proposed rule adoption.

3.9(1) The lottery shall not adopt a rule that differs from the rule proposed in the Notice of Intended Action on which the rule is based unless:

- a.* The differences are within the scope of the subject matter announced in the Notice of Intended Action and are in character with the issues raised in that notice; and
- b.* The differences are a logical outgrowth of the contents of that Notice of Intended Action and the comments submitted in response thereto; and
- c.* The Notice of Intended Action provided fair warning that the outcome of that rule-making proceeding could be the rule in question.

3.9(2) In determining whether the Notice of Intended Action provided fair warning that the outcome of that rule-making proceeding could be the rule in question, the lottery shall consider the following factors:

- a.* The extent to which persons who will be affected by the rule should have understood that the rule-making proceeding on which it is based could affect their interests;
- b.* The extent to which the subject matter of the rule or the issues determined by the rule are different from the subject matter or issues contained in the Notice of Intended Action; and
- c.* The extent to which the effects of the rule differ from the effects of the proposed rule contained in the Notice of Intended Action.

3.9(3) The lottery shall commence a rule-making proceeding within 60 days of its receipt of a petition for rule making seeking the amendment or repeal of a rule that differs from the proposed rule contained in the Notice of Intended Action upon which the rule is based, unless the lottery finds that the differences between the adopted rule and the proposed rule are so insubstantial as to make such a rule-making proceeding wholly unnecessary. A copy of any such finding and the petition to which it responds shall be sent to petitioner, the administrative rules coordinator, and the administrative rules review committee, within three days of its issuance.

3.9(4) Concurrent rule-making proceedings. Nothing in this rule disturbs the discretion of the lottery to initiate, concurrently, several different rule-making proceedings on the same subject with several different published Notices of Intended Action.

531—3.10(17A) Exemptions from public rule-making procedures.

3.10(1) *Omission of notice and comment.* To the extent the lottery for good cause finds that public notice and participation are unnecessary, impracticable, or contrary to the public interest in the process of adopting a particular rule, the lottery may adopt that rule without publishing advance Notice of Intended Action in the Iowa Administrative Bulletin and without providing for written or oral public submissions prior to its adoption. The lottery shall incorporate the required finding and a brief statement of its supporting reasons in each rule adopted in reliance upon this subrule.

3.10(2) *Categories exempt.* The following narrowly tailored categories of rules are exempted from the usual public notice and participation requirements because those requirements are unnecessary, impracticable, or contrary to the public interest with respect to each and every member of the defined class:

- a. Rules relating to lottery games.
- b. Reserved.

3.10(3) *Public proceedings on rules adopted without them.* The lottery may, at any time, commence a standard rule-making proceeding for the adoption of a rule that is identical or similar to a rule it adopts in reliance upon subrule 3.10(1). Upon written petition by a governmental subdivision, the administrative rules review committee, an agency, the administrative rules coordinator, an association having not less than 25 members, or at least 25 persons, the lottery shall commence a standard rule-making proceeding for any rule specified in the petition that was adopted in reliance upon subrule 3.10(1). Such a petition must be filed within one year of the publication of the specified rule in the Iowa Administrative Bulletin as an adopted rule. The rule-making proceeding on that rule must be commenced within 60 days of the receipt of such a petition. After a standard rule-making proceeding commenced pursuant to this subrule, the lottery may either readopt the rule it adopted without benefit of all usual procedures on the basis of subrule 3.10(1), or may take any other lawful action, including the amendment or repeal of the rule in question, with whatever further proceedings are appropriate.

531—3.11(17A) Concise statement of reasons.

3.11(1) *General.* When requested by a person, either prior to the adoption of a rule or within 30 days after its publication in the Iowa Administrative Bulletin as an adopted rule, the lottery shall issue a concise statement of reasons for the rule. Requests for such a statement must be in writing and be delivered to the Iowa Lottery Authority, 13001 University Avenue, Clive, Iowa 50325-8225. The request should indicate whether the statement is sought for all or only a specified part of the rule. Requests will be considered made on the date received.

3.11(2) *Contents.* The concise statement of reasons shall contain:

- a. The reasons for adopting the rule;
- b. An indication of any change between the text of the proposed rule contained in the published Notice of Intended Action and the text of the rule as finally adopted, with the reasons for any such change;
- c. The principal reasons urged in the rule-making proceeding for and against the rule, and the lottery's reasons for overruling the arguments made against the rule.

3.11(3) *Time of issuance.* After a proper request, the lottery shall issue a concise statement of reasons by the later of the time the rule is adopted or 35 days after receipt of the request.

[ARC 1954C, IAB 4/15/15, effective 5/20/15]

531—3.12(17A) Contents, style, and form of rule.

3.12(1) *Contents.* Each rule adopted by the lottery shall contain the text of the rule and, in addition:

- a. The date the lottery adopted the rule;
- b. A brief explanation of the principal reasons for the rule-making action if such reasons are required by Iowa Code section 17A.4(1b) or the lottery in its discretion decides to include such reasons;
- c. A reference to all rules repealed, amended, or suspended by the rule;
- d. A reference to the specific statutory or other authority authorizing adoption of the rule;
- e. Any findings required by any provision of law as a prerequisite to adoption or effectiveness of the rule;
- f. A brief explanation of the principal reasons for the failure to provide for waivers to the rule if no waiver provision is included and a brief explanation of any waiver or special exceptions provided in the

rule if such reasons are required by Iowa Code section 17A.4(1b), or the lottery in its discretion decides to include such reasons; and

g. The effective date of the rule.

3.12(2) *Incorporation by reference.* The lottery may incorporate by reference in a proposed or adopted rule, and without causing publication of the incorporated matter in full, all or any part of a code, standard, rule, or other matter if the lottery authority board finds that the incorporation of its text in the lottery's proposed or adopted rule would be unduly cumbersome, expensive, or otherwise inexpedient. The reference in the lottery's proposed or adopted rule shall fully and precisely identify the incorporated matter by location, title, citation, date, and edition, if any; shall briefly indicate the precise subject and the general contents of the incorporated matter; and shall state that the proposed or adopted rule does not include any later amendments or editions of the incorporated matter. The lottery may incorporate such matter by reference in a proposed or adopted rule only if the lottery makes copies of it readily available to the public. The rule shall state how and where copies of the incorporated matter may be obtained at cost from the lottery, and how and where copies may be obtained from an agency of the United States, this state, another state, or the organization, association, or persons originally issuing that matter. The lottery shall retain permanently a copy of any materials incorporated by reference in a rule of the lottery.

If the lottery adopts standards by reference to another publication, it shall provide a copy of the publication containing the standards to the administrative rules coordinator for deposit in the state law library and may make the standards available electronically.

3.12(3) *References to materials not published in full.* When the administrative code editor decides to omit the full text of a proposed or adopted rule because publication of the full text would be unduly cumbersome, expensive, or otherwise inexpedient, the lottery shall prepare and submit to the administrative code editor for inclusion in the Iowa Administrative Bulletin and Iowa Administrative Code a summary statement describing the specific subject matter of the omitted material. This summary statement shall include the title and a brief description sufficient to inform the public of the specific nature and subject matter of the proposed or adopted rules, and of significant issues involved in these rules. The summary statement shall also describe how a copy of the full text of the proposed or adopted rule, including any unpublished matter and any matter incorporated by reference, may be obtained from the lottery. The lottery will provide a copy of that full text (at actual cost) upon request and shall make copies of the full text available for review at the state law library and may make the standards available electronically.

At the request of the administrative code editor, the lottery shall provide a proposed statement explaining why publication of the full text would be unduly cumbersome, expensive, or otherwise inexpedient.

3.12(4) *Style and form.* In preparing its rules, the lottery shall follow the uniform numbering system, form, and style prescribed by the administrative rules coordinator.

531—3.13(17A) Agency rule-making record.

3.13(1) *Requirement.* The lottery shall maintain an official rule-making record for each rule it proposes by publication in the Iowa Administrative Bulletin of a Notice of Intended Action, or adopts. The rule-making record and materials incorporated by reference must be available for public inspection.

3.13(2) *Contents.* The lottery rule-making record shall contain:

a. Copies of all publications in the Iowa Administrative Bulletin with respect to the rule or the proceeding upon which the rule is based and any file-stamped copies of agency submissions to the administrative rules coordinator concerning that rule or the proceeding upon which it is based;

b. Copies of any portions of the lottery's public rule-making docket containing entries relating to the rule or the proceeding upon which the rule is based;

c. All written petitions, requests, and submissions received by the lottery, and all other written materials of a factual nature as distinguished from opinion that are relevant to the merits of the rule and that were created or compiled by the lottery and considered by the chief executive officer of the lottery, in connection with the formulation, proposal, or adoption of the rule or the proceeding upon which the rule is based, except to the extent the lottery is authorized by law to keep them confidential; provided, however, that when any such materials are deleted because they are authorized by law to be kept confidential, the lottery shall identify in the record the particular materials deleted and state the reasons for that deletion;

- d. Any official transcript of oral presentations made in the proceeding upon which the rule is based or, if not transcribed, the stenographic record or electronic recording of those presentations, and any memorandum prepared by a presiding officer summarizing the contents of those presentations;
- e. A copy of any regulatory analysis or fiscal impact statement prepared for the proceeding upon which the rule is based;
- f. A copy of the rule and any concise statement of reasons prepared for that rule;
- g. All petitions for amendments or repeal or suspension of the rule;
- h. A copy of any objection to the issuance of that rule without public notice and participation that was filed pursuant to Iowa Code section 17A.4(2) by the administrative rules review committee, the governor, or the attorney general;
- i. A copy of any objection to the rule filed by the administrative rules review committee, the governor, or the attorney general pursuant to Iowa Code section 17A.4(4), and any agency response to that objection;
- j. A copy of any significant written criticism of the rule, including a summary of any petitions for waiver of the rule; and
- k. A copy of any executive order concerning the rule.

3.13(3) *Effect of record.* Except as otherwise required by a provision of law, the lottery rule-making record required by this rule need not constitute the exclusive basis for agency action on that rule.

3.13(4) *Maintenance of record.*

- a. The lottery shall maintain the rule-making record for a period of not less than five years from the later of the date the rule to which it pertains became effective or the date of the Notice of Intended Action.
- b. The lottery will maintain a separate file of any written criticism received regarding any of its rules for a period of not less than five years from the date the first written criticism for a rule was received as described in 3.13(2) “g,” “h,” “i,” or “j.”

531—3.14(17A) Filing of rules. The lottery shall file each rule it adopts in the office of the administrative rules coordinator. The filing must be executed as soon after adoption of the rule as is practicable. At the time of filing, each rule must have attached to it any fiscal impact statement and any concise statement of reasons that was issued with respect to that rule. If a fiscal impact statement or statement of reasons for that rule was not issued until a time subsequent to the filing of that rule, the note or statement must be attached to the filed rule within five working days after the note or statement is issued. In filing a rule, the lottery shall use the standard form prescribed by the administrative rules coordinator.

531—3.15(17A) Effectiveness of rules prior to publication.

3.15(1) *Grounds.* The lottery may make a rule effective after its filing at any stated time prior to 35 days after its indexing and publication in the Iowa Administrative Bulletin if it finds that a statute so provides, the rule confers a benefit or removes a restriction on some segment of the public, or that the effective date of the rule is necessary to avoid imminent peril to the public health, safety, or welfare. The lottery shall incorporate the required finding and a brief statement of its supporting reasons in each rule adopted in reliance upon this subrule.

3.15(2) *Special notice.* When the lottery makes a rule effective prior to its indexing and publication in reliance upon the provisions of Iowa Code section 17A.5(2) “b”(3), the lottery shall employ all reasonable efforts to make its contents known to the persons who may be affected by that rule prior to the rule’s indexing and publication. The term “all reasonable efforts” requires the lottery to employ the most effective and prompt means of notice rationally calculated to inform potentially affected parties of the effectiveness of the rule that is justified and practical under the circumstances considering the various alternatives available for this purpose, the comparative costs to the lottery of utilizing each of those alternatives, and the harm suffered by affected persons from any lack of notice concerning the contents of the rule prior to its indexing and publication. The means that may be used for providing notice of such rules prior to their indexing and publication include, but are not limited to, any one or more of the following means: radio, newspaper, television, signs, mail, telephone, personal notice or electronic means.

A rule made effective prior to its indexing and publication in reliance upon the provisions of Iowa Code section 17A.5(2) “b”(3) shall include in that rule a statement describing the reasonable efforts that will be used to comply with the requirements of subrule 3.15(2).

531—3.16(17A) General statements of policy.

3.16(1) *Compilation, indexing, public inspection.* The lottery shall maintain an official, current, and dated compilation that is indexed by subject, containing all of its general statements of policy within the scope of Iowa Code section 17A.2(10) “a,” “c,” “f,” “g,” “h,” and “k.” Each addition to, change in, or deletion from the official compilation must also be dated, indexed, and a record thereof kept. Except for those portions containing rules governed by Iowa Code section 17A.2(7) “f,” or otherwise authorized by law to be kept confidential, the compilation must be made available for public inspection and copying.

3.16(2) *Enforcement of requirements.* A general statement of policy subject to the requirements of this rule shall not be relied on by the lottery to the detriment of any person who does not have actual, timely knowledge of the contents of the statement until the requirements of subrule 3.16(1) are satisfied. This provision is inapplicable to the extent necessary to avoid imminent peril to the public health, safety, or welfare.

531—3.17(17A) Review by agency of rules.

3.17(1) Any interested person, association, agency, or political subdivision may submit a written request to the administrative rules coordinator requesting the lottery to conduct a formal review of a specified rule. Upon approval of that request by the administrative rules coordinator, the lottery shall conduct a formal review of a specified rule to determine whether a new rule should be adopted instead or the rule should be amended or repealed. The lottery may refuse to conduct a review if it has conducted such a review of the specified rule within five years prior to the filing of the written request.

3.17(2) In conducting the formal review, the lottery shall prepare within a reasonable time a written report summarizing its findings, its supporting reasons, and any proposed course of action. The report must include a concise statement of the lottery’s findings regarding the rule’s effectiveness in achieving its objectives, including a summary of any available supporting data. The report shall also concisely describe significant written criticisms of the rule received during the previous five years, including a summary of any petitions for waiver of the rule received by the lottery or granted by the lottery. The report shall describe alternative solutions to resolve the criticisms of the rule, the reasons any were rejected, and any changes made in the rule in response to the criticisms as well as the reasons for the changes. A copy of the lottery’s report shall be sent to the administrative rules review committee and the administrative rules coordinator. The report must also be available for public inspection.

These rules are intended to implement Iowa Code chapter 17A.

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CHAPTER 4 WAIVER RULES

[Prior to 9/17/03, see 705—Ch 5]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

531—4.1(99G) Waiver of rules. These rules outline a uniform process for the granting of waivers from rules adopted by the Iowa lottery authority.

[ARC 5991C, IAB 10/20/21, effective 11/24/21]

531—4.2(99G) Definition. For purposes of this chapter, “a waiver” means action by the lottery authority board that suspends in whole or in part the requirements or provisions of a rule as applied to an identified person on the basis of the particular circumstances of that person.

[ARC 5991C, IAB 10/20/21, effective 11/24/21]

531—4.3(99G) Scope of chapter. This chapter outlines generally applicable standards and a uniform process for the granting of individual waivers from rules adopted by the lottery authority board in situations where no other more specifically applicable law provides for waivers. To the extent another more specific provision of law governs the issuance of a waiver from a particular rule, the more specific provision shall supersede this chapter with respect to any waiver from that rule.

531—4.4(99G) Applicability of chapter. The lottery authority board may grant a waiver from a rule only if the board has jurisdiction over the rule and the requested waiver is consistent with applicable statutes, constitutional provisions, or other provisions of law. The board may not waive requirements created or imposed by statute.

531—4.5(99G) Criteria for waiver. In response to a petition completed pursuant to rule 531—5.6(17A), the board may in its sole discretion issue an order waiving in whole or in part the requirements of a rule if the board finds, based on clear and convincing evidence, all of the following:

1. The application of the rule would impose an undue hardship on the person for whom the waiver is requested;
2. The waiver from the requirements of the rule in the specific case would not prejudice the substantial legal rights of any person;
3. The provisions of the rule subject to the petition for a waiver are not specifically mandated by statute or another provision of law; and
4. Substantially equivalent protection of public health, safety and welfare will be afforded by a means other than that prescribed in the particular rule for which the waiver is requested.

[ARC 5991C, IAB 10/20/21, effective 11/24/21]

531—4.6(99G) Filing of petition. A petition for a waiver must be submitted in writing to the board, as follows:

4.6(1) License application. If the petition relates to a license application, the petition shall be made in accordance with the filing requirements for the license in question.

4.6(2) Contested cases. If the petition relates to a pending contested case, the petition shall be filed in the contested case proceeding, using the caption of the contested case.

4.6(3) Other. If the petition does not relate to a license application or a pending contested case, the petition may be submitted to the board’s executive secretary.

531—4.7(99G) Content of petition. A petition for waiver shall include the following information where applicable and known to the requester:

1. The name, address, and telephone number of the person or entity for which a waiver is being requested and the case number of any related contested case;
2. A description and citation of the specific rule from which a waiver is requested;
3. The specific waiver requested, including the precise scope and duration;

4. The relevant facts that the petitioner believes would justify a waiver under each of the four criteria described in rule 531—4.5(99G). This statement shall include a signed statement from the petitioner attesting to the accuracy of the facts provided in the petition and a statement of reasons that the petitioner believes will justify a waiver;

5. A history of any prior contacts between the board and the petitioner relating to the activity or license affected by the proposed waiver, including a description of each affected license held by the requester, any notices of violation, contested case hearings, or investigative reports relating to the activity or license within the last five years;

6. Any information known to the requester regarding the board's treatment of similar cases;

7. The name, address, and telephone number of any public agency or political subdivision which also regulates the activity in question, or which might be affected by the granting of a waiver;

8. The name, address, and telephone number of any person or entity that would be adversely affected by the granting of a petition;

9. The name, address, and telephone number of any person with knowledge of the relevant facts relating to the proposed waiver;

10. Signed releases of information authorizing persons with knowledge regarding the petition to furnish the board with information relevant to the waiver.

531—4.8(99G) Additional information. Prior to issuing an order granting or denying a waiver, the board may request additional information from the petitioner relative to the petition and surrounding circumstances. If the petition was not filed in a contested case, the board may, on its own motion or at the petitioner's request, schedule a telephonic or in-person meeting between the petitioner and a quorum of the board.

531—4.9(99G) Notice. The board shall acknowledge a petition upon receipt. The board shall ensure that notice of the pendency of the petition and a concise summary of its contents have been provided to all persons to whom notice is required by any provision of law within 30 days of the receipt of the petition. In addition, the board may give notice to other persons. To accomplish this notice provision, the board may require the petitioner to serve notice on all persons to whom notice is required by any provision of law and provide a written statement to the board attesting that notice has been provided.

531—4.10(99G) Hearing procedures. The provisions of Iowa Code sections 17A.10 to 17A.18A regarding contested case hearings shall apply to any petition for a waiver filed within a contested case and shall otherwise apply to agency proceedings for a waiver only when the board so provides by rule or order or is required to do so by statute.

531—4.11(99G) Ruling. An order granting or denying a waiver shall be in writing and shall contain a reference to the particular person and rule or portion thereof to which the order pertains, a statement of the relevant facts and reasons upon which the action is based, and a description of the precise scope and duration of the waiver if one is issued.

4.11(1) Board discretion. The final decision on whether the circumstances justify the granting of a waiver shall be made at the sole discretion of the board, upon consideration of all relevant factors. The board shall evaluate each fact based on the unique, individual circumstances set out in the petition for waiver.

4.11(2) Burden of persuasion. The burden of persuasion rests with the petitioner to demonstrate by clear and convincing evidence that the board should exercise its discretion to grant a waiver from a board rule.

4.11(3) Narrowly tailored exception. A waiver, if granted, shall provide the narrowest exception possible to the provisions of a rule.

4.11(4) Administrative deadlines. When the rule from which a waiver is sought establishes administrative deadlines, the board shall balance the special individual circumstances of the petitioner with the overall goal of uniform treatment of all similarly situated persons.

4.11(5) Conditions. The board may place any condition on a waiver that the board finds desirable to protect the public health, safety, and welfare.

4.11(6) Time period of waiver. A waiver shall not be permanent unless the petitioner can show that a temporary waiver would be impracticable. If a temporary waiver is granted, there is no automatic right to renewal. At the sole discretion of the board, a waiver may be renewed if the board finds that grounds for a waiver continue to exist.

4.11(7) Time for ruling. The board shall grant or deny a petition for a waiver as soon as practicable but, in any event, shall do so within 120 days of its receipt, unless the petitioner agrees to a later date. However, if a petition is filed in a contested case, the board shall grant or deny the petition no later than the time at which the final decision in that contested case is issued.

4.11(8) When deemed denied. Failure of the board to grant or deny a petition within the required time period shall be deemed a denial of that petition by the board. However, the board shall remain responsible for issuing an order denying a waiver.

4.11(9) Service of order. Within seven days of its issuance, any order issued under this chapter shall be transmitted to the petitioner or the person to whom the order pertains and to any other person entitled to such notice by any provision of law.

531—4.12(99G) Public availability. All orders granting or denying a waiver petition shall be indexed, filed, and available for public inspection as provided in Iowa Code section 17A.3. Petitions for a waiver and orders granting or denying waiver petitions are public records under Iowa Code chapter 22. Some petitions or orders may contain information the board is authorized or required to keep confidential. The board may accordingly redact confidential information from petitions or orders prior to public inspection.

531—4.13(99G) Submission of waiver information. Within 60 days of granting or denying a waiver, the board shall make a submission on the Internet site established pursuant to Iowa Code section 17A.9A for the submission of waiver information identifying the rules for which a waiver has been granted or denied, the number of times a waiver was granted or denied for each rule, a citation to the statutory provisions implemented by the rules, and a general summary of the reasons justifying the board's actions on waiver requests. If practicable, the report shall detail the extent to which the granting of a waiver has established a precedent for additional waivers and the extent to which the granting of a waiver has affected the general applicability of the rule itself.

[ARC 5991C, IAB 10/20/21, effective 11/24/21]

531—4.14(99G) Cancellation of a waiver. A waiver issued by the board pursuant to this chapter may be withdrawn, canceled, or modified if, after appropriate notice and hearing, the board issues an order finding any of the following:

1. The person who was the subject of the waiver order withheld or misrepresented material facts relevant to the propriety or desirability of the waiver; or
2. The substantially equivalent means for ensuring that the public health, safety and welfare will be adequately protected after issuance of the waiver order have been demonstrated to be insufficient; or
3. The subject of the waiver order has failed to comply with all conditions contained in the order.

531—4.15(99G) Violations. Violation of a condition in a waiver order shall be treated as a violation of the particular rule for which the waiver was granted. As a result, the recipient of a waiver under this chapter who violates a condition of the waiver may be subject to the same remedies or penalties as a person who violates the rule at issue.

531—4.16(99G) Defense. After the board issues an order granting a waiver, the order is a defense within its terms and the specific facts indicated therein for the person to whom the order pertains in any proceeding in which the rule in question is sought to be invoked.

531—4.17(99G) Judicial review. Judicial review of the board's decision to grant or deny a waiver petition may be taken in accordance with Iowa Code chapter 17A.

These rules are intended to implement Iowa Code chapters 17A and 99G and Executive Order Number 11

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CHAPTER 5 CONTESTED CASES

[Prior to 8/31/94, see 705—Ch 7]

[Prior to 9/17/03, see 705—Ch 6]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

531—5.1(17A) Scope and applicability. This chapter applies to contested case proceedings related to lottery licensees and lottery licenses.

531—5.2(17A) Definitions. Except where otherwise specifically defined by law:

“*Contested case*” means a proceeding defined by Iowa Code section 17A.2(5) and includes any matter defined as a no factual dispute contested case under Iowa Code section 17A.10A.

“*Issuance*” means the date of mailing or otherwise electronically providing a copy of a decision or order or date of delivery if service is by other means unless another date is specified in the order.

“*Party*” means each person or agency named or admitted as a party or properly seeking and entitled as of right to be admitted as a party.

“*Presiding officer*” means the administrative law judge.

“*Proposed decision*” means the presiding officer’s recommended findings of fact, conclusions of law, decision, and order in a contested case .

[ARC 4814C, IAB 12/18/19, effective 1/22/20]

531—5.3(17A) Hearing board. Rescinded ARC 4814C, IAB 12/18/19, effective 1/22/20.

531—5.4(17A) Time requirements.

5.4(1) Time shall be computed as provided in Iowa Code subsection 4.1(34).

5.4(2) For good cause, the presiding officer may extend or shorten the time to take any action, except as precluded by statute or by rule. Except for good cause stated in the record, before extending or shortening the time to take any action, the presiding officer shall afford all parties an opportunity to be heard or to file written arguments.

531—5.5(17A) Requests for contested case proceeding. Any person claiming an entitlement to a contested case proceeding shall file a written request for such a proceeding within the time specified by the particular rules or statutes governing the subject matter or, in the absence of such law, the time specified in the agency action in question.

The request for a contested case proceeding should state the name and address of the requester, identify the specific agency action which is disputed, and where the requester is represented by a lawyer identify the provisions of law or precedent requiring or authorizing the holding of a contested case proceeding in the particular circumstances involved, and include a short and plain statement of the issues of material fact in dispute.

531—5.6(17A) Notice of hearing.

5.6(1) Delivery. Delivery of the notice of hearing constitutes the commencement of the contested case proceeding. Delivery may be executed by:

- a. Personal or electronic service as permitted in the Iowa Rules of Civil Procedure; or
- b. Certified mail, return receipt requested; or
- c. First-class mail; or
- d. Publication, as provided in the Iowa Rules of Civil Procedure.

5.6(2) Contents. The notice of hearing shall contain the following information:

- a. A statement of the time, place, and nature of the hearing;
- b. A statement of the legal authority and jurisdiction under which the hearing is to be held;
- c. A reference to the particular sections of the statutes and rules involved;

d. A short and plain statement of the matters asserted. If the lottery or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter, upon application, a more definite and detailed statement shall be furnished;

e. Identification of all parties including the name, address and telephone number of the person who will act as advocate for the lottery or the state and of parties' counsel where known;

f. Reference to the procedural rules governing conduct of the contested case proceeding; and

g. Identification of the presiding officer, if known. If not known, a description of who will serve as presiding officer.

[ARC 4814C, IAB 12/18/19, effective 1/22/20]

531—5.7(17A) Presiding officer.

5.7(1) Any party who wishes to request that the presiding officer assigned to render a proposed decision be an administrative law judge employed by the department of inspections and appeals must file a written request within 20 days after service of a notice of hearing that identifies or describes the presiding officer as the agency head or members of the agency.

5.7(2) The chief executive officer of the lottery may deny the request only upon a finding that one or more of the following apply:

a. Neither the agency nor any officer of the agency under whose authority the contested case is to take place is a named party to the proceeding or a real party in interest to that proceeding.

b. There is a compelling need to expedite issuance of a final decision in order to protect the public health, safety, or welfare.

c. The case involves significant policy issues of first impression that are inextricably intertwined with the factual issues presented.

d. The demeanor of the witnesses is likely to be dispositive in resolving the disputed factual issues.

e. Funds are unavailable to pay the costs of an administrative law judge and an interagency appeal.

f. The request was not timely filed.

g. The request is not consistent with a specified statute.

5.7(3) The chief executive officer of the lottery shall issue a written ruling specifying the grounds for its decision within 20 days after a request for an administrative law judge is filed. If the ruling is contingent upon the availability of an administrative law judge, the parties shall be notified at least 10 days prior to hearing if a qualified administrative law judge will not be available.

5.7(4) Except as provided otherwise by another provision of law, all rulings by an administrative law judge acting as presiding officer are subject to appeal to the lottery. A party must seek any available appeal with the lottery in order to exhaust adequate administrative remedies.

5.7(5) Unless otherwise provided by law, the chief executive officer or a designee, when reviewing a proposed decision upon appeal to the lottery, shall have the powers of and shall comply with the provisions of this chapter which apply to presiding officers.

[ARC 4814C, IAB 12/18/19, effective 1/22/20]

531—5.8(17A) Telephone proceedings. The presiding officer may resolve preliminary procedural motions by telephone conference in which all parties have an opportunity to participate. Other telephone proceedings may be held with the consent of all parties. The presiding officer will determine the location of the parties and witnesses for telephone hearings. The convenience of the witnesses or parties, as well as the nature of the case, will be considered when location is chosen.

531—5.9(17A) Disqualification.

5.9(1) A presiding officer or other person shall withdraw from participation in the making of any proposed or final decision in a contested case if that person:

a. Has a personal bias or prejudice concerning a party or a representative of a party;

b. Has personally investigated, prosecuted or advocated in connection with that case, the specific controversy underlying that case, another pending factually related contested case, or a pending factually related controversy that may culminate in a contested case involving the same parties;

c. Is subject to the authority, direction or discretion of any person who has personally investigated, prosecuted or advocated in connection with that contested case, the specific controversy underlying that contested case, or a pending factually related contested case or controversy involving the same parties;

d. Has acted as counsel to any person who is a private party to that proceeding within the past two years;

e. Has a personal financial interest in the outcome of the case or any other significant personal interest that could be substantially affected by the outcome of the case;

f. Has a spouse or relative within the third degree of relationship that: (1) is a party to the case, or an officer, director or trustee of a party; (2) is a lawyer in the case; (3) is known to have an interest that could be substantially affected by the outcome of the case; or (4) is likely to be a material witness in the case; or

g. Has any other legally sufficient cause to withdraw from participation in the decision making in that case.

5.9(2) The term “personally investigated” means taking affirmative steps to interview witnesses directly or to obtain documents or other information directly. The term “personally investigated” does not include general direction and supervision of assigned investigators, unsolicited receipt of information which is relayed to assigned investigators, review of another person’s investigative work product in the course of determining whether there is probable cause to initiate a proceeding, or exposure to factual information while performing other agency functions, including fact gathering for purposes other than investigation of the matter which culminates in a contested case. Factual information relevant to the merits of a contested case received by a person who later serves as presiding officer in that case shall be disclosed if required by Iowa Code section 17A.17 and subrules 5.9(3) and 5.23(9).

5.9(3) In a situation where a presiding officer or other person knows of information which might reasonably be deemed to be a basis for disqualification and decides voluntary withdrawal is unnecessary, that person shall submit the relevant information for the record by affidavit and shall provide for the record a statement of the reasons for the determination that withdrawal is unnecessary.

5.9(4) If a party asserts disqualification on any appropriate grounds, including those listed in subrule 5.9(1), the party shall file a motion supported by an affidavit pursuant to Iowa Code subsection 17A.17(7). The motion must be filed as soon as practicable after the reason alleged in the motion becomes known to the party.

If, during the course of the hearing, a party first becomes aware of evidence of bias or other grounds for disqualification, the party may move for disqualification but must establish the grounds by the introduction of evidence into the record.

If the presiding officer determines that disqualification is appropriate, the presiding officer or other person shall withdraw. If the presiding officer determines that withdrawal is not required, the presiding officer shall enter an order to that effect. A party asserting disqualification may seek an interlocutory appeal under 531—5.25(17A) and seek a stay under rule 531—5.29(17A).

531—5.10(17A) Consolidation and severance.

5.10(1) *Consolidation.* The presiding officer may consolidate any or all matters at issue in two or more contested case proceedings where: (a) the matters at issue involve common parties or common questions of fact or law; (b) consolidation would expedite and simplify consideration of the issues involved; and (c) consolidation would not adversely affect the rights of any of the parties to those proceedings.

5.10(2) *Severance.* The presiding officer may, for good cause shown, order any contested case proceedings or portions thereof severed.

531—5.11(17A) Pleadings.

5.11(1) *Requirement.* Pleadings may be required by rule, by the notice of hearing, or by order of the presiding officer.

5.11(2) *Petition.*

a. Any petition required in a contested case proceeding shall be filed within 20 days of delivery of the notice of hearing or subsequent order of the presiding officer, unless otherwise ordered.

b. A petition shall state in separately numbered paragraphs the following:

- (1) The persons or entities on whose behalf the petition is filed;
- (2) The particular provisions of statutes and rules involved;
- (3) The relief demanded and the facts and laws relied upon for such relief; and
- (4) The name, address and telephone number of the petitioner and the petitioner's attorney, if any.

5.11(3) *Answer.* An answer shall be filed within 20 days of service of the petition unless otherwise ordered. A party may move to dismiss or apply for a more definite and detailed statement when appropriate.

An answer shall show on whose behalf it is filed and specifically admit, deny, or otherwise answer all material allegations of the pleading to which it responds. It shall state any facts deemed to show an affirmative defense and contain as many additional defenses as the pleader may claim.

An answer shall state the name, address and telephone number of the person filing the answer, the person or entity on whose behalf it is filed, and the attorney representing that person, if any.

Any allegation in the petition not denied in the answer is considered admitted. The presiding officer may refuse to consider any defense not raised in the answer which could have been raised on the basis of facts known when the answer was filed if any party would be prejudiced.

5.11(4) *Amendment.* Any notice of hearing, petition, or other charging document may be amended before a responsive pleading has been filed. Amendments to pleadings after a responsive pleading has been filed and to an answer may be allowed with the consent of the other parties or in the discretion of the presiding officer who may impose terms or grant a continuance.

531—5.12(17A) Service and filing of pleadings and other papers.

5.12(1) *When service required.* Except where otherwise provided by law, every pleading, motion, document, or other paper filed in a contested case proceeding and every paper relating to discovery in such a proceeding shall be served upon each of the parties of record to the proceeding, including the person designated as advocate or prosecutor for the state or the agency, simultaneously with their filing. Except for the original notice of hearing and an application for rehearing as provided in Iowa Code subsection 17A.16(2), the party filing a document is responsible for service on all parties.

5.12(2) *Service—how made.* Service upon a party represented by an attorney shall be made upon the attorney unless otherwise ordered. Service is made by delivery or by mailing a copy to the person's last-known address or by electronic service as permitted by the presiding officer and the Iowa Rules of Civil Procedure. Service by paper or electronic mail is complete upon mailing, except where otherwise specifically provided by statute, rule or order.

5.12(3) *Filing—when required.* After the notice of hearing, all pleadings, motions, documents or other papers in a contested case proceeding shall be filed with the presiding officer. All pleadings, motions, documents or other papers that are required to be served upon a party shall be filed simultaneously with the presiding officer.

5.12(4) *Filing—when made.* Except where otherwise provided by law, a document is deemed filed at the time it is delivered to the presiding officer, delivered to an established courier service for immediate delivery to the presiding officer, delivered via electronic mail or fax, or mailed by first-class mail or state interoffice mail to the presiding officer, so long as there is proof of mailing.

5.12(5) *Proof of mailing.* Proof of mailing includes either: a legible United States Postal Service postmark on the envelope, a certificate of service, a notarized affidavit, or a certification in substantially the following form:

I certify under penalty of perjury and pursuant to the laws of Iowa that, on (date of mailing), I mailed copies of (describe document) addressed to the (agency office and address) and to the names and addresses of the parties listed below by depositing the same in (a United States Post Office mail box with correct postage properly affixed or state interoffice mail).

(Date)

(Signature)

531—5.13(17A) Discovery.

5.13(1) Discovery procedures applicable in civil actions are applicable in contested cases. Unless lengthened or shortened by these rules or by order of the presiding officer, time periods for compliance with discovery shall be provided in the Iowa Rules of Civil Procedure.

5.13(2) Any motion relating to discovery shall allege that the moving party has previously made a good faith attempt to resolve the discovery issues involved with the opposing party. Motions in regard to discovery shall be ruled upon by the presiding officer. Opposing parties shall be afforded the opportunity to respond within ten days of the filing of the motion unless the time is shortened as provided in subrule 5.13(1). The presiding officer may rule on the basis of the written motion and any response, or may order argument on the motion.

5.13(3) Evidence obtained in discovery may be used in the contested case proceeding if that evidence would otherwise be admissible in that proceeding.

531—5.14(17A) Subpoenas.**5.14(1) Issuance.**

a. An agency subpoena shall be issued to a party on request. Such a request must be in writing. In the absence of good cause for permitting later action, a request for a subpoena must be received at least three days before the scheduled hearing. The request shall include the name, address, and telephone number of the requesting party.

b. Except to the extent otherwise provided by law, parties are responsible for service of their own subpoenas and payment of witness fees and mileage expenses.

5.14(2) *Motion to quash or modify.* The presiding officer may quash or modify a subpoena for any lawful reason upon motion in accordance with the Iowa Rules of Civil Procedure. A motion to quash or modify a subpoena shall be set for argument promptly.

531—5.15(17A) Motions.

5.15(1) No technical form for motions is required. However, prehearing motions must be in writing, state the grounds for relief, and state the relief sought.

5.15(2) Any party may file a written response to a motion within ten days after the motion is served, unless the time period is extended or shortened by rules of the lottery or the presiding officer. The presiding officer may consider a failure to respond within the required time period in ruling on a motion.

5.15(3) The presiding officer may schedule oral argument on any motion.

5.15(4) Motions pertaining to the hearing, except motions for summary judgment, must be filed and served at least ten days prior to the date of hearing unless there is good cause for permitting later action or the time for such action is lengthened or shortened by rule of the lottery or an order of the presiding officer.

5.15(5) Motions for summary judgment. Motions for summary judgment shall comply with the requirements of Iowa Rule of Civil Procedure 1.981 and shall be subject to disposition according to the requirements of that rule to the extent such requirements are not inconsistent with the provisions of this rule or any other provision of law governing the procedure in contested cases.

Motions for summary judgment must be filed and served at least 45 days prior to the scheduled hearing date, or other time period determined by the presiding officer. Any party resisting the motion shall file and serve a resistance within 15 days, unless otherwise ordered by the presiding officer, from the date a copy of the motion was served. The time fixed for hearing or nonoral submission shall be not less than 20 days after the filing of the motion, unless a shorter time is ordered by the presiding officer. A summary judgment order rendered on all issues in a contested case is subject to rehearing pursuant to rule 531—5.28(17A) and appeal pursuant to rule 531—5.27(17A).

531—5.16(17A) Prehearing conference.

5.16(1) Any party may request a prehearing conference. A written request for prehearing conference or an order for prehearing conference on the presiding officer's own motion shall be filed not less than 15 days prior to the hearing date. A prehearing conference shall be scheduled not less than 10 business days prior to the hearing date. Written notice of the prehearing conference shall be given by the presiding officer to all parties. For good cause the presiding officer may permit variances from this rule.

5.16(2) Each party shall bring to the prehearing conference:

- a.* A final list of the witnesses who the party anticipates will testify at hearing. Witnesses not listed may be excluded from testifying unless there was good cause for the failure to include their names; and
- b.* A final list of exhibits which the party anticipates will be introduced at hearing. Exhibits other than rebuttal exhibits that are not listed may be excluded from admission into evidence unless there was good cause for the failure to include them.
- c.* Witness or exhibit lists may be amended subsequent to the prehearing conference within the time limits established by the presiding officer at the prehearing conference. Any such amendments must be served on all parties.

5.16(3) In addition to the requirements of subrule 5.16(2), the parties at a prehearing conference may:

- a.* Enter into stipulations of law or fact;
- b.* Enter into stipulations on the admissibility of exhibits;
- c.* Identify matters which the parties intend to request be officially noticed;
- d.* Enter into stipulations for waiver of any provision of law; and
- e.* Consider any additional matters which will expedite the hearing.

5.16(4) Prehearing conferences shall be conducted by telephone unless otherwise ordered. Parties shall exchange and receive witness and exhibit lists in advance of a telephone prehearing conference.

531—5.17(17A) Continuances. Unless otherwise provided, applications for continuances shall be made to the presiding officer.

5.17(1) A written application for continuance shall:

- a.* Be made at the earliest possible time and no less than ten days before the hearing except in case of unanticipated emergencies;
- b.* State the specific reasons for the request; and
- c.* Be signed by the requesting party or the party's representative.

An oral application for a continuance may be made if the presiding officer waives the requirement for a written motion. However, a party making such an oral application for a continuance must confirm that request by written application within five days after the oral request unless that requirement is waived by the presiding officer. No application for continuance shall be made or granted without notice to all parties except in an emergency where notice is not feasible. The agency may waive notice of such requests for a particular case or an entire class of cases.

5.17(2) In determining whether to grant a continuance, the presiding officer may consider:

- a.* Prior continuances;
- b.* The interests of all parties;
- c.* The likelihood of informal settlement;
- d.* The existence of an emergency;
- e.* Any objection;
- f.* Any applicable time requirements;
- g.* The existence of a conflict in the schedules of counsel, parties, or witnesses;
- h.* The timeliness of the request; and
- i.* Other relevant factors.

The presiding officer may require documentation of any grounds for continuance.

531—5.18(17A) Withdrawals. A party requesting a contested case proceeding may withdraw that request prior to the hearing only in accordance with agency rules. Unless otherwise provided, a withdrawal shall be with prejudice.

531—5.19(17A) Intervention.

5.19(1) Motion. A motion for leave to intervene in a contested case proceeding shall state the grounds for the proposed intervention, the position and interest of the proposed intervenor, and the possible impact of intervention on the proceeding. A proposed answer or petition in intervention shall be attached to the motion. Any party may file a response within 14 days of service of the motion to intervene unless the time period is extended or shortened by the presiding officer.

5.19(2) *When filed.* Motion for leave to intervene shall be filed as early in the proceeding as possible to avoid adverse impact on existing parties or the conduct of the proceeding. Unless otherwise ordered, a motion for leave to intervene shall be filed before the prehearing conference, if any, or at least 20 days before the date scheduled for hearing. Any later motion must contain a statement of good cause for the failure to file in a timely manner. Unless inequitable or unjust, an intervenor shall be bound by any agreement, arrangement, or other matter previously raised in the case. Requests by untimely intervenors for continuances which would delay the proceeding will ordinarily be denied.

5.19(3) *Grounds for intervention.* The movant shall demonstrate that: (a) intervention would not unduly prolong the proceedings or otherwise prejudice the rights of existing parties; (b) the movant is likely to be aggrieved or adversely affected by a final order in the proceeding; and (c) the interests of the movant are not adequately represented by existing parties.

5.19(4) *Effect of intervention.* If appropriate, the presiding officer may order consolidation of the petitions and briefs of different parties whose interests are aligned with each other and limit the number of representatives allowed to participate actively in the proceedings. A person granted leave to intervene is a party to the proceeding. The order granting intervention may restrict the issues that may be raised by the intervenor or otherwise condition the intervenor's participation in the proceeding.

531—5.20(17A) Hearing procedures.

5.20(1) The presiding officer presides at the hearing and may rule on motions, require briefs, issue a proposed decision, and issue such orders and rulings as will ensure the orderly conduct of the proceedings.

5.20(2) All objections shall be timely made and stated on the record.

5.20(3) Parties have the right to participate or to be represented in all hearings or prehearing conferences related to their case. Partnerships, corporations, or associations may be represented by any member, officer, director, or duly authorized agent. Any party may be represented by an attorney or another person authorized by law.

5.20(4) Subject to terms and conditions prescribed by the presiding officer, parties have the right to introduce evidence on issues of material fact, cross-examine witnesses present at the hearing as necessary for a full and true disclosure of the facts, present evidence in rebuttal, and submit briefs and engage in oral argument.

5.20(5) The presiding officer shall maintain the decorum of the hearing and may refuse to admit or may expel anyone whose conduct is disorderly.

5.20(6) Witnesses may be sequestered during the hearing.

5.20(7) The presiding officer shall conduct the hearing in the following manner:

a. The presiding officer shall give an opening statement briefly describing the nature of the proceedings;

b. The parties shall be given an opportunity to present opening statements;

c. Parties shall present their cases in the sequence determined by the presiding officer;

d. Each witness shall be sworn or affirmed by the presiding officer or the court reporter and be subject to examination and cross-examination. The presiding officer may limit questioning in a manner consistent with law;

e. When all parties and witnesses have been heard, parties may be given the opportunity to present final arguments.

531—5.21(17A) Evidence.

5.21(1) The presiding officer shall rule on admissibility of evidence and may, where appropriate, take official notice of facts in accordance with all applicable requirements of law.

5.21(2) Stipulation of facts is encouraged. The presiding officer may make a decision based on stipulated facts.

5.21(3) Evidence in the proceeding shall be confined to the issues as to which the parties received notice prior to the hearing unless the parties waive their right to such notice or the presiding officer determines that good cause justifies expansion of the issues. If the presiding officer decides to admit evidence on issues outside the scope of the notice over the objection of a party who did not have actual

notice of those issues, that party, upon timely request, shall receive a continuance sufficient to amend pleadings and to prepare on the additional issue.

5.21(4) The party seeking admission of an exhibit must provide opposing parties with an opportunity to examine the exhibit prior to the ruling on its admissibility. Copies of documents should normally be provided to opposing parties.

All exhibits admitted into evidence shall be appropriately marked and be made part of the record.

5.21(5) Any party may object to specific evidence or may request limits on the scope of any examination or cross-examination. Such an objection shall be accompanied by a brief statement of the grounds upon which it is based. The objection, the ruling on the objection, and the reasons for the ruling shall be noted in the record. The presiding officer may rule on the objection at the time it is made or may reserve a ruling until the written decision.

5.21(6) Whenever evidence is ruled inadmissible, the party offering that evidence may submit an offer of proof on the record. The party making the offer of proof for excluded oral testimony shall briefly summarize the testimony or, with permission of the presiding officer, present the testimony. If the excluded evidence consists of a document or exhibit, it shall be marked as part of an offer of proof and inserted in the record.

531—5.22(17A) Default.

5.22(1) If a party fails to appear or participate in a contested case proceeding after proper service of notice, the presiding officer may, if no adjournment is granted, enter a default decision or proceed with the hearing and render a decision in the absence of the party.

5.22(2) Where appropriate and not contrary to law, any party may move for default against a party who has requested the contested case proceeding and has failed to file a required pleading or has failed to appear after proper service.

5.22(3) Default decisions or decisions rendered on the merits after a party has failed to appear or participate in a contested case proceeding become final agency action unless, within 15 days after the date of notification or mailing of the decision, a motion to vacate is filed and served on all parties or an appeal of a decision on the merits is timely initiated within the time provided by rule 531—5.27(17A). A motion to vacate must state all facts relied upon by the moving party which establish that good cause existed for that party's failure to appear or participate at the contested case proceeding. Each fact so stated must be substantiated by at least one sworn affidavit of a person with personal knowledge of each such fact, which affidavit(s) must be attached to the motion.

5.22(4) The time for further appeal of a decision for which a timely motion to vacate has been filed is stayed pending a decision on the motion to vacate.

5.22(5) Properly substantiated and timely filed motions to vacate shall be granted only for good cause shown. The burden of proof as to good cause is on the moving party. Adverse parties shall have ten days to respond to a motion to vacate. Adverse parties shall be allowed to conduct discovery as to the issue of good cause and to present evidence on the issue prior to a decision on the motion, if a request to do so is included in that party's response.

5.22(6) "Good cause" for purposes of this rule shall have the same meaning as "good cause" for setting aside a default judgment under Iowa Rule of Civil Procedure 1.977.

5.22(7) A decision denying a motion to vacate is subject to further appeal within the time limit allowed for further appeal of a decision on the merits in the contested case proceeding. A decision granting a motion to vacate is subject to interlocutory appeal by the adverse party pursuant to rule 531—5.25(17A).

5.22(8) If a motion to vacate is granted and no timely interlocutory appeal has been taken, the presiding officer shall issue another notice of hearing and the contested case shall proceed accordingly.

5.22(9) A default decision may award any relief consistent with the request for relief made in the petition and embraced in its issues; but unless the defaulting party has appeared, it cannot exceed the relief demanded.

5.22(10) A default decision may provide either that the default decision is to be stayed pending a timely motion to vacate or that the default decision is to take effect immediately, subject to a request for stay under rule 531—5.29(17A).

531—5.23(17A) Ex parte communication.

5.23(1) Prohibited communications. Unless required for the disposition of ex parte matters specifically authorized by statute, following issuance of the notice of hearing, there shall be no communications, directly or indirectly, between the presiding officer and any party or representative of any party or any other person with a direct or indirect interest in such case in connection with any issue of fact or law in the case except upon notice and opportunity for all parties to participate. This does not prohibit persons jointly assigned such tasks from communicating with each other. Nothing in this provision is intended to preclude the presiding officer from communicating with members of the lottery or seeking the advice or help of persons other than those with a personal interest in, or those engaged in personally investigating as defined in subrule 5.9(2), prosecuting, or advocating in, either the case under consideration or a pending factually related case involving the same parties as long as those persons do not directly or indirectly communicate to the presiding officer any ex parte communications they have received of a type that the presiding officer would be prohibited from receiving or that furnish, augment, diminish, or modify the evidence in the record.

5.23(2) Prohibitions on ex parte communications commence with the issuance of the notice of hearing in a contested case and continue for as long as the case is pending.

5.23(3) Written, oral or other forms of communication are “ex parte” if made without notice and opportunity for all parties to participate.

5.23(4) To avoid prohibited ex parte communications, notice must be given in a manner reasonably calculated to give all parties a fair opportunity to participate. Notice of written communications shall be provided in compliance with rule 531—5.12(17A) and may be supplemented by telephone, facsimile, electronic mail or other means of notification. Where permitted, oral communications may be initiated through conference telephone call including all parties or their representatives.

5.23(5) Persons who jointly act as presiding officer in a pending contested case may communicate with each other without notice or opportunity for parties to participate.

5.23(6) The executive director or other persons may be present in deliberations or otherwise advise the presiding officer without notice or opportunity for parties to participate as long as they are not disqualified from participating in the making of a proposed or final decision under any provision of law and they comply with subrule 5.23(1).

5.23(7) Communications with the presiding officer involving uncontested scheduling or procedural matters do not require notice or opportunity for parties to participate. Parties should notify other parties prior to initiating such contact with the presiding officer when feasible, and shall notify other parties when seeking to continue hearings or other deadlines pursuant to rule 531—5.17(17A).

5.23(8) Disclosure of prohibited communications. A presiding officer who receives a prohibited ex parte communication during the pendency of a contested case must initially determine if the effect of the communication is so prejudicial that the presiding officer should be disqualified. If the presiding officer determines that disqualification is warranted, a copy of any prohibited written communication, all written responses to the communication, a written summary stating the substance of any prohibited oral or other communication not available in written form for disclosure, all responses made, and the identity of each person from whom the presiding officer received a prohibited ex parte communication shall be submitted for inclusion in the record under seal by protective order. If the presiding officer determines that disqualification is not warranted, such documents shall be submitted for inclusion in the record and served on all parties. Any party desiring to rebut the prohibited communication must be allowed the opportunity to do so upon written request filed within ten days after notice of the communication.

5.23(9) Promptly after being assigned to serve as presiding officer at any stage in a contested case proceeding, a presiding officer shall disclose to all parties material factual information received through ex parte communication prior to such assignment unless the factual information has already been or shortly will be disclosed pursuant to Iowa Code section 17A.13(2) or through discovery. Factual information contained in an investigative report or similar document need not be separately disclosed by the presiding officer as long as such documents have been or will shortly be provided to the parties.

5.23(10) The presiding officer may render a proposed or final decision imposing appropriate sanctions for violations of this rule including default, a decision against the offending party, censure, or

suspension or revocation of the privilege to practice before the lottery. Violation of ex parte communication prohibitions by agency personnel shall be reported to the chief executive officer of the lottery for possible sanctions including censure, suspension, dismissal, or other disciplinary action.

531—5.24(17A) Record costs. Upon request, the Iowa lottery shall provide a copy of the whole or any portion of the record at cost. The cost of preparing a copy of the record or of transcribing the hearing record shall be paid by the requesting party.

Parties who request that a hearing be recorded by certified shorthand reporter rather than by electronic means shall bear the cost of that recordation, unless otherwise provided by law.

531—5.25(17A) Interlocutory appeals. Upon written request of a party or sua sponte, the chief executive officer may review an interlocutory order of the presiding officer. In determining whether to do so, the chief executive officer shall weigh the extent to which the chief executive officer's granting of the interlocutory appeal would expedite final resolution of the case and the extent to which review of that interlocutory order by the agency at the time it reviews the proposed decision of the presiding officer would provide an adequate remedy. Any request for interlocutory review must be filed within 14 days of issuance of the challenged order, but no later than the time for compliance with the order or the date of hearing, whichever is first.

[ARC 4814C, IAB 12/18/19, effective 1/22/20]

531—5.26(17A) Final decision.

5.26(1) When the chief executive officer presides over the reception of evidence at the hearing, the chief executive officer's decision is a final decision.

5.26(2) When the chief executive officer does not preside at the reception of evidence, the presiding officer shall make a proposed decision. The proposed decision becomes the final decision of the agency without further proceedings unless there is an appeal to, or review on motion of, the chief executive officer within the time provided in rule 531—5.27(17A).

[ARC 4814C, IAB 12/18/19, effective 1/22/20]

531—5.27(17A) Appeals and review.

5.27(1) Appeal by party. Any adversely affected party may appeal a proposed decision to the chief executive officer of the lottery within 30 days after issuance of the proposed decision.

5.27(2) Review. The chief executive officer may initiate review of a proposed decision on the chief executive officer's own motion at any time within 30 days following the issuance of such a decision.

5.27(3) Notice of appeal. An appeal of a proposed decision is initiated by filing a timely notice of appeal with the Iowa lottery. The notice of appeal must be signed by the appealing party or a representative of that party and contain a certificate of service. The notice shall specify:

- a. The parties initiating the appeal;
- b. The proposed decision or order appealed from;
- c. The specific findings or conclusions to which exception is taken and any other exceptions to the decision or order;
- d. The relief sought;
- e. The grounds for relief.

5.27(4) Requests to present additional evidence. A party may request the taking of additional evidence only by establishing that the evidence is material, that good cause existed for the failure to present the evidence at the hearing, and that the party has not waived the right to present the evidence. A written request to present additional evidence must be filed with the notice of appeal or, by a non-appealing party, within 14 days of service of the notice of appeal. The chief executive officer may remand a case to the presiding officer for further hearing or may personally preside at the taking of additional evidence.

5.27(5) Scheduling. The chief executive officer shall issue a schedule for consideration of the appeal.

5.27(6) Briefs and arguments. Unless otherwise ordered, within 20 days of the notice of appeal or order for review, each appealing party may file exceptions and briefs. Within 20 days thereafter any party

may file a responsive brief. Briefs shall cite any applicable legal authority and specify relevant portions of the record in that proceeding. Written requests to present oral argument shall be filed with the briefs.

The chief executive officer may resolve the appeal on the briefs or provide an opportunity for oral argument. The chief executive officer may shorten or extend the briefing period as appropriate.

[ARC 4814C, IAB 12/18/19, effective 1/22/20]

531—5.28(17A) Applications for rehearing.

5.28(1) *By whom filed.* Any party to a contested case proceeding may file an application for rehearing from a final order.

5.28(2) *Content of application.* The application for rehearing shall state on whose behalf it is filed, the specific grounds for rehearing, and the relief sought. In addition, the application shall state whether the applicant desires reconsideration of all or part of the agency decision on the existing record and whether, on the basis of the grounds enumerated in subrule 5.27(4), the applicant requests an opportunity to submit additional evidence.

5.28(3) *Time of filing.* The application shall be filed with the Iowa lottery within 20 days after issuance of the final decision.

5.28(4) *Notice to other parties.* A copy of the application shall be timely mailed by the applicant to all parties of record not joining therein. If the application does not contain a certificate of service, the Iowa lottery shall serve copies on all parties.

5.28(5) *Disposition.* Any application for a rehearing shall be deemed denied unless the agency grants the application within 20 days after its filing.

531—5.29(17A) Stays of agency actions.

5.29(1) *When available.*

a. Any party to a contested case proceeding may petition the lottery for a stay of an order issued in that proceeding or for other temporary remedies, pending review by the agency. The petition shall be filed with the notice of appeal and shall state the reasons justifying a stay or other temporary remedy. The chief executive officer of the lottery may rule on the stay or authorize the presiding officer to do so.

b. Any party to a contested case proceeding may petition the lottery for a stay or other temporary remedies pending judicial review of all or part of that proceeding. The petition shall state the reasons justifying a stay or other temporary remedy.

5.29(2) *When granted.* In determining whether to grant a stay, the chief executive officer or presiding officer shall consider the factors listed in Iowa Code section 17A.19(5).

5.29(3) *Vacation.* A stay may be vacated by the issuing authority upon application of the lottery or any other party.

[ARC 4814C, IAB 12/18/19, effective 1/22/20]

531—5.30(17A) No factual dispute contested cases. If the parties agree that no dispute of material fact exists as to a matter that would be a contested case if such a dispute of fact existed, the parties may present all relevant admissible evidence either by stipulation or otherwise as agreed by the parties, without necessity for the production of evidence at an evidentiary hearing. If such agreement is reached, a jointly submitted schedule detailing the method and timetable for submission of the record, briefs and oral argument should be submitted to the presiding officer for approval as soon as practicable. If the parties cannot agree, any party may file and serve a motion for summary judgment pursuant to the rules governing such motions.

531—5.31(17A) Emergency adjudicative proceedings.

5.31(1) *Necessary emergency action.* To the extent necessary to prevent or avoid immediate danger to the public health, safety, or welfare, and consistent with the Constitution and other provisions of law, the lottery may issue a written order in compliance with Iowa Code section 17A.18 to suspend a license in whole or in part, order the cessation of any continuing activity, order affirmative action, or take other action within the jurisdiction of the lottery by emergency adjudicative order. Before issuing an emergency adjudicative order the lottery shall consider factors including, but not limited to, the following:

- a.* Whether there has been a sufficient factual investigation to ensure that the lottery is proceeding on the basis of reliable information;
- b.* Whether the specific circumstances which pose immediate danger to the public health, safety or welfare have been identified and determined to be continuing;
- c.* Whether the person required to comply with the emergency adjudicative order may continue to engage in other activities without posing immediate danger to the public health, safety or welfare;
- d.* Whether imposition of monitoring requirements or other interim safeguards would be sufficient to protect the public health, safety or welfare; and
- e.* Whether the specific action contemplated by the agency is necessary to avoid the immediate danger.

5.31(2) *Issuance of order.*

- a.* An emergency adjudicative order shall contain findings of fact, conclusions of law, and policy reasons to justify the determination of an immediate danger in the lottery's decision to take immediate action.
- b.* The written emergency adjudicative order shall be immediately delivered to persons who are required to comply with the order by utilizing one or more of the following procedures:
 - (1) Personal delivery;
 - (2) Certified mail, return receipt requested, to the last address on file with the agency;
 - (3) Certified mail to the last address on file with the agency;
 - (4) First-class mail to the last address on file with the agency; or
 - (5) Fax may be used as the sole method of delivery if the person required to comply with the order has filed a written request that agency orders be sent by fax and has provided a fax number for that purpose.
- c.* To the degree practicable, the agency shall select the procedure for providing written notice that best ensures prompt, reliable delivery.

5.31(3) *Oral notice.* Unless the written emergency adjudicative order is provided by personal delivery on the same day that the order issues, the agency shall make reasonable immediate efforts to contact by telephone the persons who are required to comply with the order.

5.31(4) *Completion of proceedings.* After the issuance of an emergency adjudicative order, the agency shall proceed as quickly as feasible to complete any proceedings that would be required if the matter did not involve an immediate danger.

Issuance of a written emergency adjudicative order shall include notification of the date on which agency proceedings are scheduled for completion. After issuance of an emergency adjudicative order, continuance of further agency proceedings to a later date will be granted only in compelling circumstances upon application in writing.

531—5.32(17A) Waiver of procedures. Unless otherwise precluded by law, the parties in a contested case proceeding may waive any provision of this chapter. However, the agency in its discretion may refuse to give effect to such a waiver when it deems the waiver to be inconsistent with the public interest.

These rules are intended to implement Iowa Code chapter 17A and Iowa Code Supplement section 99G.27(3).

[Filed emergency 6/14/85—published 7/3/85, effective 6/14/85]

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CHAPTER 6 DECLARATORY ORDERS

[Prior to 1/14/87, Iowa Lottery Agency[526] Ch 7]
[Prior to 9/17/03, see 705—Ch 7]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

531—6.1(17A) Petition for declaratory order. Any person may file a petition with the lottery for a declaratory order as to the applicability to specified circumstances of a statute, rule, or order within the primary jurisdiction of the lottery, at the Iowa Lottery Authority, 13001 University Avenue, Clive, Iowa 50325-8225. A petition is deemed filed when it is received by that office. The lottery shall provide the petitioner with a file-stamped copy of the petition if the petitioner provides the lottery an extra copy for this purpose. The petition must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

THE IOWA LOTTERY		
Petition by (Name of Petitioner) for a Declaratory Order on (cite provisions of law involved).	}	PETITION FOR DECLARATORY ORDER

The petition must provide the following information:

1. A clear and concise statement of all relevant facts on which the order is requested.
2. A citation and the relevant language of the specific statutes, rules, policies, decisions, or orders, whose applicability is questioned, and any other relevant law.
3. The questions petitioner wants answered, stated clearly and concisely.
4. The answers to the questions desired by the petitioner and a summary of the reasons urged by the petitioner in support of those answers.
5. The reasons for requesting the declaratory order and disclosure of the petitioner's interest in the outcome.
6. A statement indicating whether the petitioner is currently a party to another proceeding involving the questions at issue and whether, to the petitioner's knowledge, those questions have been decided by, are pending determination by, or are under investigation by, any governmental entity.
7. The names and addresses of other persons, or a description of any class of persons, known by petitioner to be affected by, or interested in, the questions presented in the petition.
8. Any request by petitioner for a meeting provided for by 531—6.7(17A).

The petition must be dated and signed by the petitioner or the petitioner's representative. It must also include the name, mailing address, and telephone number of the petitioner and petitioner's representative, and a statement indicating the person to whom communications concerning the petition should be directed.
[ARC 1954C, IAB 4/15/15, effective 5/20/15]

531—6.2(17A) Notice of petition. Within 15 days after receipt of a petition for a declaratory order, the lottery shall give notice of the petition to all persons not served by the petitioner pursuant to 531—6.6(17A) to whom notice is required by any provision of law. The lottery may also give notice to any other persons.

531—6.3(17A) Intervention.

6.3(1) Persons who qualify under any applicable provision of law as an intervenor and who file a petition for intervention within 25 days of the filing of a petition for declaratory order shall be allowed to intervene in a proceeding for a declaratory order.

6.3(2) Any person who files a petition for intervention at any time prior to the issuance of an order may be allowed to intervene in a proceeding for a declaratory order at the discretion of the lottery.

6.3(3) A petition for intervention shall be filed at the Iowa Lottery Authority, 13001 University Avenue, Clive, Iowa 50325-8225. Such a petition is deemed filed when it is received by that office. The lottery will provide the petitioner with a file-stamped copy of the petition for intervention if the petitioner

provides an extra copy for this purpose. A petition for intervention must be typewritten or legibly handwritten in ink and must substantially conform to the following form:

THE IOWA LOTTERY		
Petition by (Name of Petitioner) for a Declaratory Order on (cite provisions of law involved).	}	PETITION FOR INTERVENTION

The petition for intervention must provide the following information:

1. Facts supporting the intervenor's standing and qualifications for intervention.
2. The answers urged by the intervenor to the question or questions presented and a summary of the reasons urged in support of those answers.
3. Reasons for requesting intervention and disclosure of the intervenor's interest in the outcome.
4. A statement indicating whether the intervenor is currently a party to any proceeding involving the questions at issue and whether, to the intervenor's knowledge, those questions have been decided by, are pending determination by, or are under investigation by, any governmental entity.
5. The names and addresses of any additional persons, or a description of any additional class of persons, known by the intervenor to be affected by, or interested in, the questions presented.
6. Whether the intervenor consents to be bound by the determination of the matters presented in the declaratory order proceeding.

The petition must be dated and signed by the intervenor or the intervenor's representative. It must also include the name, mailing address, and telephone number of the intervenor and intervenor's representative, and a statement indicating the person to whom communications should be directed.

[ARC 1954C, IAB 4/15/15, effective 5/20/15]

531—6.4(17A) Briefs. The petitioner or any intervenor may file a brief in support of the position urged. The lottery may request a brief from the petitioner, any intervenor, or any other person concerning the questions raised.

531—6.5(17A) Inquiries. Inquiries concerning the status of a declaratory order proceeding may be made to the Chief Executive Officer, Iowa Lottery Authority, 13001 University Avenue, Clive, Iowa 50325-8225.
[ARC 1954C, IAB 4/15/15, effective 5/20/15]

531—6.6(17A) Service and filing of petitions and other papers.

6.6(1) *When service required.* Except where otherwise provided by law, every petition for declaratory order, petition for intervention, brief, or other paper filed in a proceeding for a declaratory order shall be served upon each of the parties of record to the proceeding, and on all other persons identified in the petition for declaratory order or petition for intervention as affected by or interested in the questions presented, simultaneously with their filing. The party filing a document is responsible for service on all parties and other affected or interested persons.

6.6(2) *Filing—when required.* All petitions for declaratory orders, petitions for intervention, briefs, or other papers in a proceeding for a declaratory order shall be filed with the Iowa Lottery Authority, 13001 University Avenue, Clive, Iowa 50325-8225. All petitions, briefs, or other papers that are required to be served upon a party shall be filed simultaneously with the lottery.

6.6(3) *Method of service, time of filing, and proof of mailing.* Method of service, time of filing, and proof of mailing shall be as provided by 531—5.11(17A).

[ARC 1954C, IAB 4/15/15, effective 5/20/15]

531—6.7(17A) Consideration. Upon request by petitioner, the lottery must schedule a brief and informal meeting between the original petitioner, all intervenors, and the lottery, a member of the lottery authority board, or a member of the staff of the lottery, to discuss the questions raised. The lottery may solicit comments from any person on the questions raised. Also, comments on the questions raised may be submitted to the lottery by any person.

531—6.8(17A) Action on petition.

6.8(1) Within the time allowed by Iowa Code section 17A.9(5) after receipt of a petition for a declaratory order, the chief executive officer of the lottery or a designee shall take action on the petition as required by Iowa Code section 17A.9(5).

6.8(2) The date of issuance of an order or of a refusal to issue an order is as defined in rule 531—5.2(17A).

531—6.9(17A) Refusal to issue order.

6.9(1) The lottery shall not issue a declaratory order where prohibited by Iowa Code section 17A.9(1), and may refuse to issue a declaratory order on some or all questions raised for the following reasons:

1. The petition does not substantially comply with the required form.
2. The petition does not contain facts sufficient to demonstrate that the petitioner will be aggrieved or adversely affected by the failure of the lottery to issue an order.
3. The lottery does not have jurisdiction over the questions presented in the petition.
4. The questions presented by the petition are also presented in a current rule making, contested case, or other agency or judicial proceeding, that may definitively resolve them.
5. The questions presented by the petition would more properly be resolved in a different type of proceeding or by another body with jurisdiction over the matter.
6. The facts or questions presented in the petition are unclear, overbroad, insufficient, or otherwise inappropriate as a basis upon which to issue an order.
7. There is no need to issue an order because the questions raised in the petition have been settled due to a change in circumstances.
8. The petition is not based upon facts calculated to aid in the planning of future conduct but is, instead, based solely upon prior conduct in an effort to establish the effect of that conduct or to challenge an agency decision already made.
9. The petition requests a declaratory order that would necessarily determine the legal rights, duties, or responsibilities of other persons who have not joined in the petition, intervened separately, or filed a similar petition and whose position on the questions presented may fairly be presumed to be adverse to that of petitioner.
10. The petitioner requests the lottery to determine whether a statute is unconstitutional on its face.

6.9(2) A refusal to issue a declaratory order must indicate the specific grounds for the refusal and constitutes final agency action on the petition.

6.9(3) Refusal to issue a declaratory order pursuant to this provision does not preclude the filing of a new petition that seeks to eliminate the grounds for the refusal to issue an order.

531—6.10(17A) Contents of declaratory order—effective date. In addition to the order itself, a declaratory order must contain the date of its issuance, the name of petitioner and all intervenors, the specific statutes, rules, policies, decisions, or orders involved, the particular facts upon which it is based, and the reasons for its conclusion. A declaratory order is effective on the date of issuance.

531—6.11(17A) Copies of orders. A copy of all orders issued in response to a petition for a declaratory order shall be mailed promptly to the original petitioner and all intervenors.

531—6.12(17A) Effect of a declaratory order. A declaratory order has the same status and binding effect as a final order issued in a contested case proceeding. It is binding on the lottery, the petitioner, and any intervenors who consent to be bound and is applicable only in circumstances where the relevant facts and the law involved are indistinguishable from those on which the order was based. As to all other persons, a declaratory order serves only as precedent and is not binding on the lottery. The issuance of a declaratory order constitutes final agency action on the petition.

These rules are intended to implement Iowa Code chapter 17A.

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CHAPTERS 7 to 10
Reserved

CHAPTER 11 PRIZES

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

531—11.1(99G) Claiming prizes.

11.1(1) A prize claim shall be entered in the name of a single individual or organization. A claim may be entered in the name of an organization only if the organization is a legal entity and possesses or has applied for a federal employer's identification number (FEIN) as issued by the Internal Revenue Service. Groups, family units, organizations, clubs, or other organizations that are not legal entities, do not possess a FEIN, or have not applied for a FEIN must designate one individual in whose name the claim will be entered.

11.1(2) By submitting a claim, a player agrees that the state, the lottery authority board, the lottery authority, and the officials, officers, and employees of each shall be discharged from all further liability upon payment of the prize.

11.1(3) By submitting a claim, the player also agrees that the prizewinner's name may be used for publicity purposes by the lottery.

11.1(4) An original ticket or share must be presented before payment of any prize will occur. No reproductions, facsimiles, or copies of any kind will be allowed.

11.1(5) The player must sign the original ticket or share prior to presenting the ticket to another party for the purpose of checking or validating the ticket. The lottery and retailers shall verify that there is a signature on any ticket(s) submitted for checking or validation.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.21, and 99G.31.

531—11.2(99G) Claim period. A prize must be claimed within the time limit specifically designated in these rules or as specified by the lottery in the specific game rules.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.21, and 99G.31.

531—11.3(99G) Invalid tickets not entitled to prize payment. If a ticket presented to the lottery is invalid pursuant to the terms of these rules or the specific game rules, the ticket is not entitled to prize payment.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.21, and 99G.31.

531—11.4(99G) Ticket is a bearer instrument. A ticket is a bearer instrument until signed in the space designated on the ticket for signature if a signature space is provided. The person who signs the ticket is thereafter considered the owner of the ticket. All liability of the state, the lottery authority board, the lottery authority, the chief executive officer, and the employees of the lottery terminates upon payment.

This rule is intended to implement Iowa Code sections 99G.9(3), 99G.21, and 99G.31.

531—11.5(99G) Assignment of prizes. Payments of prizes shall be made as follows:

11.5(1) The lottery shall pay all prizes to only one person or one legal entity per winning ticket.

11.5(2) If a prize is payable in installments, all future installments of the prize must be made to the person or legal entity that received the initial installment of the prize or to a person designated by the court to receive payment following the prizewinner's death, unless otherwise assigned according to these rules.

11.5(3) Payment of a prize may be made to the estate of a deceased prizewinner or to another person pursuant to an appropriate judicial order.

11.5(4) The right to control receipt of a lottery prize shall be substantially limited. See 26 U.S.C. 451 and Treas. Reg. 1.451-2(a). The right to receive payment of a lottery prize or a future installment of a lottery prize shall not be sold, assigned or otherwise transferred in any manner without an appropriate judicial order or statutory authorization. An appropriate judicial order is an order of a court of competent jurisdiction.

11.5(5) In the event that a legal entity other than an individual is entitled to a lottery prize won jointly by more than one individual, the individuals originally entitled to share the prize cannot sell, assign or

otherwise transfer their interest in the legal entity receiving prize payment or their right to receive future payments from the legal entity without an appropriate judicial order or statutory authorization. An appropriate judicial order is an order of a court of competent jurisdiction.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.21, and 99G.31.

531—11.6(99G) Prize payment to minors. If the person entitled to a prize is under the age of 18, the payment of the prize may be made by delivery of cash or a check payable to the order of the minor or to a parent or legal guardian of the minor. Claim forms and tickets submitted by minors must be signed by a parent or legal guardian of the minor.

This rule is intended to implement Iowa Code sections 99G.9(3), 99G.21(2), 99G.30(3), and 99G.31.

531—11.7(99G) Time of prize payment. All prizes shall be paid within a reasonable time after a claim is verified by the lottery and a winner is determined. The date of the first installment payment of any prize to be paid in installment payments shall be the date the claim is validated and processed unless a different date is specified for a particular game in these rules or the specific game rules. Subsequent installment payments shall be made approximately weekly, monthly, or annually, from the date the claim is processed and validated in accordance with the type of prize won and the rules applicable to the prize. The lottery may, at any time, delay any prize payment in order to review a change in circumstances relative to the prize awarded, the payee, or the claim.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.21(2), and 99G.30.

531—11.8(99G) Prizes payable for the life of the winner. If any prize is payable for the life of the winner, only an individual may claim and receive the prize for life. If a group, corporation, or other organization is the winner, the life of the winner shall be deemed to be 20 years.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.21(2), and 99G.31.

531—11.9(99G) Prizes payable after death of winner. All prizes and portions of prizes that remain unpaid at the time of the prizewinner's death shall be payable to the court-appointed representative of the prizewinner's estate or to a single individual pursuant to the terms of a final order closing the estate.

The lottery may withhold payment until it is satisfied that the proper payee has been identified, or it may petition the court to determine the proper payee. In making payment, the lottery may rely wholly on the presentation of a certified copy of the letters of appointment as an administrator, executor, or other personal representative for the prizewinner's estate or on a certified copy of the final order closing the estate. Payment to the representative of the estate of the deceased owner of any prize winnings or to another individual pursuant to a final order closing the estate shall absolve the lottery authority and employees of the lottery authority of any further liability for payment of prize winnings.

If the winner received an annuitized prize funded through the Multi-State Lottery Association (MUSL) or any other multijurisdictional lottery organization in which the Iowa lottery participates as a member, the MUSL board or other organization board, as may be appropriate, in its sole discretion, upon the petition of the estate of the lottery winner (the "estate"), may accelerate the payment of all of the remaining lottery proceeds to the estate. If the winner received an annuitized prize funded solely through the sales from the Iowa lottery, the lottery board, in its sole discretion, upon the petition of the estate of the lottery winner (the "estate"), may accelerate the payment of all of the remaining lottery proceeds to the estate. If such a determination is made, then securities or cash held for the deceased lottery winner, that represents the present value of that portion of the future lottery payments that are to be accelerated, shall be distributed to the estate. The valuation of the securities and determination of the present value of the accelerated lottery payments shall be at the sole discretion of the board granting the petition.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.21(2), and 99G.31.

531—11.10(99G) Disability of prizewinner. The lottery may petition any court of competent jurisdiction for a determination of the rightful payee for the payment of any prize winnings which are or may become due a person under a disability because of, but not limited to, underage, mental deficiency, or physical or mental incapacity.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.21(2), and 99G.31.

531—11.11(99G) Stolen or lost tickets. The lottery has no responsibility for paying prizes attributable to stolen or lost tickets.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.21(2), and 99G.31.

531—11.12(99G) Effect of game rules. In purchasing a ticket, the player agrees to comply with Iowa Code Supplement chapter 99G, these rules, the specific game rules, lottery instructions and procedures, and the final decisions of the lottery. The lottery's decisions and judgments in respect to the determination of winning tickets or any other dispute arising from the payment or awarding of prizes shall be final and binding upon all participants in the lottery. If a dispute between the lottery and a player occurs as to whether a ticket is a winning ticket and the prize is not paid, the lottery may, solely at the lottery's option, replace the ticket with an unplayed ticket of equivalent price from any game or refund the price of the ticket. This shall be the sole and exclusive remedy of the player.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.21(2), and 99G.31.

531—11.13(99G) Disputed prizes. If there is a dispute, or it appears that a dispute may occur relative to the payment of any prize, the lottery may refrain from making payment of the prize pending a final determination by the lottery or by a court of competent jurisdiction as to the proper payment of the prize.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.21(2), and 99G.31.

531—11.14(99G) Prize payment for prizes paid over a term exceeding ten years.

11.14(1) A prizewinner who wins a prize that is payable over a term exceeding ten years may, not later than 60 days after the player became entitled to the prize, elect to have the prize paid in cash or by annuity consistent with 26 U.S.C. §451. If the payment election is not made by the prizewinner at the time of purchase or is not made within 60 days after the prizewinner becomes entitled to the prize, then the prize shall be paid as an annuity prize. An election for an annuity payment made by a prizewinner before the ticket purchase or by system default or design may be changed to a cash payment at the election of the prizewinner until the expiration of 60 days after the prizewinner becomes entitled to the prize. The election to take the cash payment may be made at the earlier of the following dates:

- a. The time of the prize claim; or
- b. Within 60 days after the prizewinner becomes entitled to the prize.

An election made after the prizewinner becomes entitled to the prize is final and cannot be revoked, withdrawn or otherwise changed.

11.14(2) In the event there is more than one prizewinner for a prize paid over a period exceeding ten years, the shares of the prize shall be determined by dividing the cash available in the prize pool equally among all the winners of the prize. Winners who elect a cash payment shall be paid their share in a single cash payment. The annuitized option prize shall be determined by multiplying a winner's share of the prize pool by the annuity factor used by the lottery. The lottery's annuity factor is determined by the best price obtained through a competitive bid of qualified, preapproved brokers or insurance companies made after it is determined that the prize is to be paid as an annuity prize or after the expiration of 60 days after the prizewinner becomes entitled to the prize.

11.14(3) The lottery shall not be responsible or liable for changes in the advertised or estimated annuity prize amount and the actual amount of the prize value purchased from the time the player becomes eligible for the prize and the time the prizewinner claims the prize.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.21(2), and 99G.31.

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CHAPTER 12 LICENSING

[Prior to 1/14/87, Iowa Lottery Agency[526] Ch 3]
[Prior to 9/17/03, see 705—Ch 2]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

531—12.1(99G,252J,272D) License eligibility criteria.

12.1(1) A person, partnership, unincorporated association, authority, or other business entity shall not be selected as a lottery retailer if the person or entity meets any of the following conditions:

- a.* Has been convicted of a criminal offense related to the security or integrity of the lottery in Iowa or any other jurisdiction.
- b.* Has been convicted of any illegal gambling activity, false statements, perjury, fraud, or a felony in Iowa or any other jurisdiction.
- c.* Has been found to have violated the provisions of Iowa Code chapter 99G, or any regulation, policy, or procedure of the lottery, unless either ten years have passed since the violation or the board finds the violation both minor and unintentional in nature.
- d.* Is a vendor or any employee or agent of any vendor doing business with the lottery.
- e.* Resides in the same household as an officer of the lottery.
- f.* If a natural person, is less than 18 years of age.
- g.* Does not demonstrate financial responsibility sufficient to adequately meet the requirements of the proposed enterprise.
- h.* Has not demonstrated that the applicant is the true owner of the business proposed to be licensed and that all persons holding at least a 10 percent ownership interest in the applicant's business have been disclosed.
- i.* Has knowingly made a false statement of material fact to the authority.

12.1(2) The applicant shall be current in filing all applicable tax returns to the state of Iowa and in payment of all taxes, interest, and penalties owed to the state of Iowa, excluding items under formal appeal pursuant to applicable statutes.

12.1(3) 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.

12.1(4) The lottery will deny a license to any applicant defined by this chapter if the lottery has received a certificate of noncompliance from the centralized collection unit of the department of revenue 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 99G.7(1), 99G.9(3), 99G.21(2), 99G.24, 252J.2, and 272D.8.

[ARC 6608C, IAB 11/2/22, effective 12/7/22]

531—12.2(99G,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 99G 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 99G.9(3), 99G.21(2), 99G.24(5), and 252J.2.

531—12.3(99G) Applicant or person defined. For purposes of determining whether an applicant or person is eligible for a license, the term “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, persons owning at least 10 percent or more of a limited liability company, the manager or managers of a limited liability company, and any legal entity applying for a license.

This rule is intended to implement Iowa Code sections 99G.9(3) and 99G.24.

531—12.4(99G,252J,272D) Lottery licenses.

12.4(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: instant 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.

12.4(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.

12.4(3) All lottery license applications must be accompanied by a nonrefundable fee of \$25.

12.4(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.

12.4(5) The lottery may waive the payment of any license fee to facilitate an experimental program or a research project.

12.4(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 licensees is adequate to market any lottery product.

12.4(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.

a. 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.

b. If an application is denied because the lottery has received a certificate of noncompliance from the centralized collections unit of the department of revenue regarding an applicant or person as defined by this chapter, the effective date of denial of the issuance of the license, as specified in the notice required by Iowa Code section 272D.8, shall be 60 days following service of the notice upon the applicant.

This rule is intended to implement Iowa Code sections 99G.7, 99G.9(3), 99G.21(2), 99G.24, 99G.30, 252J.2, 252J.8, and 272D.8.

[ARC 2781C, IAB 10/26/16, effective 11/30/16; ARC 6608C, IAB 11/2/22, effective 12/7/22]

531—12.5(99G) 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 99G.9(3), 99G.21(2), 99G.24(3), 99G.25, and 99G.30.

531—12.6(99G) Expiration of licenses. A license is valid until it expires, is terminated by a change of circumstances, is surrendered by the licensee, or is revoked by the lottery. A license that 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 99G.9(3), 99G.21(2), 99G.24(3), and 99G.27.

531—12.7(99G,252J) 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 for 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 99G.9(3), 99G.21(2), 99G.24(3), 99G.27, 252J.2, and 252J.8.

531—12.8(99G) 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 99G.9(3), 99G.21(2), and 99G.30.

531—12.9(99G) 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 99G.9(3), 99G.21(2), 99G.24, and 99G.30.

531—12.10(99G) 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 99G.9(3), 99G.21(2), and 99G.27(1).

531—12.11(99G) 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 99G.7, 99G.9(3), 99G.21(2), and 99G.27.

531—12.12(99G,252J,272D) Suspension or revocation of a license.

12.12(1) The lottery may suspend or revoke any license issued pursuant to these rules for one or more of the following reasons:

a. Failing to meet or maintain the eligibility criteria for license application and issuance established by Iowa Code chapter 99G or these rules.

b. Violating any of the provisions of Iowa Code chapter 99G, these rules, or the license terms and conditions.

c. 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 that are dishonored or electronic funds transfers that are not paid; fraud, deceit, misrepresentation, or other conduct prejudicial to the public confidence in the lottery.

d. If public convenience is adequately served by other licensees.

e. Failing to sell a minimum number of tickets as established by the lottery.

f. A history of thefts or other forms of losses of tickets or revenue from the business.

g. 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.

h. Obtaining a license by fraud, misrepresentation, concealment or through inadvertence or mistake.

i. 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.

j. Denying the lottery or its authorized representative, including authorized local law enforcement agencies, access to any place where a licensed activity is conducted.

k. 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.

l. 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.

m. Failing to follow the instructions of the lottery for the conduct of any particular game or special event.

n. 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.

o. 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.

p. For a licensee who is an individual, when 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.

q. Allowing activities on the licensed premises that could compromise the dignity of the state.

r. Failing to accurately or timely account or pay for lottery products, lottery games, revenues, or prizes as required by the lottery.

s. Filing for or being placed in bankruptcy or receivership.

t. Engaging in any conduct likely to result in injury to the property, revenue, or reputation of the lottery.

u. Making any material change, as determined in the sole discretion of the lottery, in any matter considered by the lottery in executing the contract with the retailer.

v. When the lottery receives a certificate of noncompliance from the centralized collection unit of the department of revenue in regard to nonpayment of a state debt, unless the unit furnishes the lottery with a withdrawal of the certificate of noncompliance. This paragraph applies both to sole proprietorships and to persons with the requisite ownership interest in or relation to any other organized business entity as set forth in 531—12.3(99G). This paragraph applies in addition to the procedures set forth in Iowa Code chapter 272D.

12.12(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. The effective date of revocation or suspension of a license, or denial of the issuance or renewal of a license, for nonpayment of state debt, as specified in the notice required by Iowa Code section 272D.8, shall be 60 days following service of the notice upon the licensee. The effective date for all other notices of revocation or suspension shall be 20 days following service upon a licensee.

12.12(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 531—12.13(99G,252J,272D).

12.12(4) Upon suspicion that a retailer has sold a ticket to an underage player, the lottery will investigate and provide a written warning to the retailer describing the report of the event and of the potential violation of Iowa Code section 99G.30(3). In the event a retailer sells a ticket to an underage player and the lottery can substantiate the claim, the lottery may suspend the retailer's license for 7 days. When a retailer sells a ticket to an underage player and the lottery can substantiate the claim a second time in a period of one year from the date of the first event, the lottery may suspend the retailer's license for a period of 30 days. When a retailer sells a ticket to an underage player and the lottery can substantiate the claim a third time in a period of one year from the date of the first event as described in this rule, the retailer's license may be suspended for one year.

12.12(5) Upon revocation or suspension of a retailer's license of 30 days or longer, the retailer shall surrender to the lottery, by a date designated by the lottery, the license, lottery identification card, and all other lottery property. The lottery will settle the retailer's account as if the retailer had terminated its relationship with the lottery voluntarily.

This rule is intended to implement Iowa Code sections 99G.9(3), 99G.21(2), 99G.24, 99G.27, 99G.30(3), 99G.35, 252J.8, and 272D.8(2).

[ARC 1462C, IAB 5/14/14, effective 6/18/14; ARC 6608C, IAB 11/2/22, effective 12/7/22]

531—12.13(99G,252J,272D) Methods of service.

12.13(1) The notice required by Iowa Code section 252J.8 shall be served upon the licensee by restricted certified mail, return receipt requested, or personal service in accordance with Iowa Rule of Civil Procedure 1.305. Alternatively, the licensee may accept service personally or through authorized counsel.

12.13(2) The notice required by Iowa Code section 272D.8 shall be served upon the licensee by certified mail, return receipt requested; by personal service in accordance with Iowa Rule of Civil Procedure 1.305; or through authorized counsel. Alternatively, the licensee may accept service personally or through authorized counsel.

12.13(3) Notice of a license revocation or a suspension for the reasons described in 531—12.12(99G,252J,272D) shall be served upon the licensee by restricted certified mail, return receipt requested, or personal service in accordance with Iowa Rule of Civil Procedure 1.305. 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. If requested by the licensee, 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 99G.9(3), 99G.21(2), 99G.24, 252J.8, and 272D.8.

[ARC 6608C, IAB 11/2/22, effective 12/7/22]

531—12.14(99G,252J,272D) Licensee's obligation. Licensees and license applicants must keep the lottery informed of all court actions and all child support recovery unit actions or centralized collection unit actions taken under or in connection with Iowa Code chapter 252J or 272D. Licensees and applicants must also 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 or 272D.9, all court orders entered in such actions, and any withdrawals of certificates of noncompliance by the child support recovery unit or centralized collections unit.

This rule is intended to implement Iowa Code sections 99G.9(3), 99G.21(2), 252J.8, and 272D.8.

[ARC 6608C, IAB 11/2/22, effective 12/7/22]

531—12.15(99G,252J,272D) 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 or sections 272D.8 and 272D.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 99G.9(3), 99G.21(2), 252J.8, 252J.9, 272D.8, and 272D.9.

[ARC 6608C, IAB 11/2/22, effective 12/7/22]

531—12.16(99G) Financial responsibility. The lottery shall use the following guidelines to determine financial responsibility for a retailer seeking a license to sell lottery products.

12.16(1) *Sole proprietorship.* The lottery will not require a bond from a sole proprietor if the account history for the applicant for the past two years discloses no more than four accounts past due and no accounts over 90 days past due.

12.16(2) *Partnership.* If the license applicant is a partnership, 50 percent of the partners must meet the credit guidelines listed in subrule 12.16(1). If the credit history discloses that the requirements of subrule 12.16(1) are satisfied, the lottery will not require a bond.

12.16(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 12.16(1). 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 12.16(1). If the credit history discloses that the requirements of subrule 12.16(1) are satisfied, the lottery will not require a bond.

12.16(4) *Corporations and limited liability companies in existence two years or more if a credit risk appraisal is available through a financial and credit reporting entity.* 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 and a credit risk appraisal is available through a financial and credit reporting entity, 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 appraisal provided by a financial and credit reporting entity that indicates the corporation's or limited liability company's financial condition is fair or better.

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.

12.16(5) *Corporations and limited liability companies in existence less than two years or if a credit risk appraisal is not available through a financial and credit reporting entity.* If a corporation has been in existence for less than two years from the date of the application or a credit risk appraisal is not available through a financial and credit reporting entity, 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 or a credit risk appraisal is not available through a financial and credit reporting entity, 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 12.16(1). If the corporate officers or the members of the limited liability company meet the requirements set forth in subrule 12.16(1), the lottery will not require the corporation or the limited liability company to obtain a bond.

12.16(6) *Bonding requirements.* With respect to any license applicant whose credit history does not meet the guidelines described in subrules 12.16(1) through 12.16(5), 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 instant tickets with or without pull-tab tickets, \$1,500.

c. Sale of on-line games with or without instant and pull-tab tickets, \$2,500.

12.16(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 sections 99G.7(1) and 99G.26.

531—12.17(99G) Monitor vending machine retailers. Unless specifically noted in 531—Chapter 14, the rules contained in this chapter do not apply to entities holding licenses pursuant to 531—Chapter 14.

This rule is intended to implement Iowa Code sections 99G.7(1) and 99G.26.

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CHAPTER 13 LICENSED RETAILERS

[Prior to 1/14/87, Iowa Lottery Agency[526] Ch 4]
[Prior to 9/17/03, see 705—Ch 3]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

531—13.1(99G) Licensed retailers. All lottery retailers shall be licensed in the manner provided in Iowa Code Supplement chapter 99G and these rules. Retailers shall abide by all applicable laws and administrative rules, the terms and conditions of the license, and all other directives and instructions issued by the lottery.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.24, 99G.25, 99G.27, 99G.30, and 99G.31.

531—13.2(99G) Requirements for the sale of tickets.

13.2(1) Retailers shall be knowledgeable about the lottery and lottery products and may be required to take training in the operation of lottery games. Retailers shall make the purchase of tickets convenient to the public.

13.2(2) Tickets shall be sold at the price designated by the lottery. Retailers shall not sell tickets for a price other than that specified by the lottery.

13.2(3) No retailer or any employee or member of a retailer shall attempt to identify a winning ticket prior to the sale of the ticket.

13.2(4) Retailers shall pay all prizes that the lottery requires retailers to pay during normal business hours at the location designated on the license.

13.2(5) Retailers shall not purchase tickets previously sold by the retailer.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.30, and 99G.31.

531—13.3(99G) Display and availability of lottery license certificates, rules and promotional materials provided by the lottery.

13.3(1) Retailers shall display the lottery license certificates or a facsimile thereof in an area visible to the general public wherever tickets are being sold.

13.3(2) Retailers shall display brochures, flyers, or similar items provided by the lottery that are designed to provide the rules of lottery games near the point at which tickets are sold.

13.3(3) Retailers shall display point-of-sale material provided by the lottery in a manner that is readily seen by and available to the public. The lottery may require the removal of objectionable material or the discontinuance of objectionable advertising that may have an adverse impact on the lottery.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.24, and 99G.27.

531—13.4 Reserved.

531—13.5(99G) Ownership of tickets and other property. All instant tickets accepted by a licensed retailer are the property of the licensed retailer. Tickets that are erroneous or mutilated when received by a retailer may be returned to the lottery for credit. After confirmation of delivery, the retailer is responsible for the condition and security of the tickets and for any losses resulting from tickets which become lost, stolen, or damaged. The lottery may credit retailers for lost, stolen, or damaged instant tickets if the lottery determines that the best interests of the lottery will be served by issuing a credit.

Unless otherwise indicated in writing, all lottery property provided to a licensed retailer for use in selling products, as opposed to property and tickets sold to a retailer, remains the property of the lottery. The retailer shall deliver lottery property to the lottery upon request.

This rule is intended to implement Iowa Code Supplement sections 99G.7, 99G.9(3), 99G.24, and 99G.27.

531—13.6(99G) Retailer costs and compensation.

13.6(1) Retailers shall purchase pull-tab tickets for a price equal to the retail price of the tickets less the value of prizes that the retailer is required to pay and any discounts or commissions authorized by the lottery. Retailers shall purchase scratch tickets at retail price and shall be credited for validations and commissions.

13.6(2) The lottery may impose a service fee on retailers to cover operational costs.

13.6(3) The lottery, with board approval, shall set the base amount of retailer compensation. The base amount of compensation shall be specified in the agreement between the retailer and the lottery. The lottery may increase the total amount of retailer compensation by implementing sales incentive programs.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.21, and 99G.24.

531—13.7(99G) Retailer payment methods. Retailers are required to pay for lottery tickets or shares by means of an electronic funds transfer from the retailer's account. The lottery may allow a retailer to make payments by another method if the retailer can show that the electronic funds transfer system imposes a significant hardship on the retailer or if the lottery determines that the retailer's payment history justifies use of an alternative payment method.

This rule is intended to implement Iowa Code Supplement sections 99G.7, 99G.9(3), 99G.27, 99G.28, and 99G.40.

531—13.8(99G) Dishonored checks and electronic funds transfers. Any payment made to the lottery by an applicant for a license or by a licensed retailer either by a check which is dishonored or by an electronic funds transfer (EFT) which is not paid by the depository shall be grounds for immediate denial of the application for a license or for the suspension or revocation of an existing license. The lottery may assess a surcharge up to the maximum allowed by applicable state law for each dishonored check or EFT. The lottery may also alter the payment terms of a retailer's license and require a retailer to reimburse the lottery for costs which occur as a result of a dishonored check or EFT.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.24, and 99G.27.

531—13.9(99G) Inspection of lottery materials and licensed premises. Retailers shall allow the lottery to enter upon the licensed premises in order to inspect lottery materials, tickets, and the premises. All books and records pertaining to the retailer's lottery activities shall be available to the lottery for inspection and copying during the normal business hours of the retailer and between 8 a.m. and 5 p.m., Monday through Friday. All books and records pertaining to the retailer's lottery activities are subject to seizure by the lottery without prior notice.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.24, 99G.27, and 99G.28.

531—13.10(99G) Individuals who may sell lottery tickets. Lottery tickets may be sold only by a licensed retailer or an employee of a licensed retailer who is authorized to sell lottery tickets. If the retailer is a nonprofit organization, members of the organization may also sell lottery tickets if authorized by the organization. The retailer is responsible for the conduct of its employees and members that is within the scope of the retailer's lottery license.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.24, 99G.25, and 99G.30.

531—13.11(99G) Ticket sales restrictions. The lottery reserves the right to limit or terminate the sale of computerized game tickets at any licensed retail location if such sales may compromise the operation and integrity of the lottery, reflect conduct prejudicial to the public confidence in the lottery or reflect activity of an illegal nature under local, state or federal laws.

13.11(1) Plays may only be entered manually using the lottery terminal keypad or touch screen or by means of a play slip provided by the lottery and hand-marked by the player or by such other means approved by the lottery. Retailers shall not permit any device to be connected to a lottery terminal to enter plays, except as approved by the lottery.

13.11(2) A ticket or combination of tickets which would guarantee such purchaser a jackpot win shall not directly and knowingly be sold to any person or entity.

13.11(3) An offer to buy and an offer to sell a ticket shall be made only at a location and only by a method which is licensed by the lottery.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.21, 99G.24, 99G.27, and 99G.31.

531—13.12(99G) Placement of lottery equipment. The chief executive officer shall determine the need for and type of lottery equipment to be installed at licensee sales outlet locations. Decisions regarding placement of lottery equipment shall be at the sole discretion of the chief executive officer. In the exercise of discretion, the chief executive officer may consider any of the following:

1. The availability of equipment.
2. The suitability of the type of equipment for the specific retail outlet under consideration.
3. The location, equipment, business type and proximity of other extant retail outlets compared with an outlet under consideration.
4. The sufficiency of existing licensed outlets to serve the public convenience.
5. Such minimum sales criteria as may be appropriate based on current market conditions.
6. The cost of equipment and potential return on lottery investment.
7. Such other factors as the chief executive officer may deem appropriate to the exercise of prudent business judgment in reaching a decision.

The decision of the chief executive officer regarding placement of equipment is solely discretionary and final.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.7, and 99G.21.

531—13.13(99G) Monitor vending machine retailers. Unless specifically noted in 531—Chapter 14, the rules contained in this chapter do not apply to entities holding licenses pursuant to 531—Chapter 14.

This rule is intended to implement Iowa Code Supplement section 99G.9(3).

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CHAPTER 14 MONITOR VENDING MACHINES

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

531—14.1(99G,252J) License eligibility criteria. An applicant shall be eligible to hold a monitor vending machine (MVM) retailer license only if the applicant meets the requirements set forth in rule 531—12.1(99G,252J). An applicant shall be eligible to hold an MVM premises license only if the applicant meets the requirements set forth in rule 531—14.5(99G).

This rule is intended to implement Iowa Code section 252J.2 and Iowa Code Supplement sections 99G.7(1), 99G.9(3), 99G.21(2), and 99G.24.

531—14.2(99G,252J) Factors relevant to license issuance. The lottery may issue an MVM license to any applicant who meets the eligibility criteria established by Iowa Code Supplement chapter 99G and these rules. In exercising its licensing discretion the lottery shall consider the factors identified in rule 531—12.2(99G,252J).

This rule is intended to implement Iowa Code section 252J.2 and Iowa Code Supplement sections 99G.9(3), 99G.21(2), and 99G.24(5).

531—14.3(99G) Definitions. For purposes of this chapter, the following definitions shall apply:

“Applicant” and *“person”* shall have the definition set forth in rule 531—12.3(99G).

“Monitor vending machine” means a vending machine that dispenses or prints and dispenses lottery tickets that have been determined to be winning or losing tickets by a predetermined pool drawing machine prior to the dispensing of the tickets. Each monitor vending machine shall have a video monitor for display of ticket symbols and audio capabilities to aid in play of a game.

“MVM” means monitor vending machine.

“MVM distributor” means a person or entity, other than an MVM manufacturer or an MVM retailer, that possesses an MVM license and that purchases or leases MVMs and leases or sells MVMs to MVM retailers.

“MVM license” means either an MVM retailer license or an MVM premises license issued pursuant to these rules, or both.

“MVM premises” means a business establishment or other location where one or more MVMs are located or are proposed to be located.

“MVM premises operator” means the person who owns the primary business or enterprise conducted at the MVM premises.

“MVM retailer” means a person or entity that possesses an MVM retailer license and sells lottery products from one or more lottery-approved MVMs that are owned or leased by the person or entity and that are located on premises owned or managed by the MVM retailer or by an MVM premises operator.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3) and 99G.21(2).

531—14.4(99G,252J) MVM retailer licenses.

14.4(1) Any MVM retailer or MVM distributor must possess an MVM retailer license before purchasing, selling, or leasing any MVMs in the state of Iowa.

14.4(2) No MVM retailer license will be issued to an MVM manufacturer or any parent, subsidiary, or affiliated company or entity thereof.

14.4(3) The lottery has discretion to license a qualified applicant to sell lottery products from MVMs. An MVM retailer license authorizes the licensee to sell only the type of lottery products specified on the license and only from MVMs that have been certified by the chief executive officer of the lottery pursuant to rule 14.19(99G). MVM retailer licenses also allow the licensees to distribute lottery-certified MVMs. The lottery shall maintain a list of MVMs that have been certified by the chief executive officer as meeting lottery requirements.

14.4(4) An MVM retailer license is not limited to a specific location, but MVMs may only be used to sell lottery products on premises that have been licensed pursuant to rule 14.5(99G).

14.4(5) Any eligible applicant may apply for an MVM retailer license 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.

14.4(6) All lottery MVM license applications must be accompanied by a nonrefundable fee of \$25.

14.4(7) The lottery may waive the payment of any license fee to facilitate an experimental program or a research project.

14.4(8) A limited number of MVM retailers may be selected from applications received. The selection shall be made based on criteria designed to produce the maximum amount of net revenue and serve the public convenience. The lottery may refuse to accept MVM retailer license applications for a period of time if the lottery determines that the number of existing MVM retailer licensees is adequate to market lottery products.

14.4(9) 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.

14.4(10) A lottery licensee holding a lottery license pursuant to the rules contained in 531—Chapters 12 and 13 may sell lottery products from MVMs only if that licensee possesses a separate MVM license. Any premises on which MVMs will be located must be licensed pursuant to rule 14.5(99G), even if the premises operator holds a lottery license pursuant to the rules contained in 531—Chapters 12 and 13.

14.4(11) Notwithstanding any of the foregoing, licensees of the Iowa racing and gaming commission making application for an MVM retailer license will not be required to submit to the lottery's criminal background check.

This rule is intended to implement Iowa Code sections 252J.2 and 252J.8 and Iowa Code Supplement sections 99G.9(3), 99G.21(2), 99G.24, and 99G.30.

531—14.5(99G) MVM premises license.

14.5(1) Before an MVM may be used to vend lottery products, the premises on which the MVM is to be located must be licensed by the chief executive officer of the lottery. An MVM premises shall be licensed only after all of the following requirements have been met:

1. The MVM premises operator shall have passed a criminal background check.
2. The MVM premises shall have been demonstrated to be compatible with the dignity of the state.
3. The chief executive officer shall have determined that the MVM premises is an age-controlled environment. Examples of age-controlled environments are premises where the age of patrons is monitored by the employees of the establishment.
4. All lottery MVM premises license applications must be accompanied by a nonrefundable fee of \$25.

14.5(2) The MVM premises operator shall post its MVM license, or a facsimile, at the MVM premises. The license or a facsimile thereof may be affixed to the MVM.

14.5(3) Any premises on which MVMs will be located must be licensed pursuant to rule 14.5(99G), even if the premises operator holds a lottery license pursuant to the rules contained in 531—Chapters 12 and 13.

14.5(4) MVM premises licenses shall be issued in accordance with the lottery's MVM business plan.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.30, and 99G.31.

531—14.6(99G) Transfer of MVM licenses prohibited. MVM 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 those permitted by lottery rules.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.21(2), 99G.24(3), 99G.25, and 99G.30.

531—14.7(99G) Expiration of MVM licenses. An MVM license is valid until it expires, is terminated by a change of circumstances, is surrendered by the licensee, or is revoked by the lottery. An MVM license that does not have an expiration date will continue indefinitely until it is surrendered, revoked, or terminated by a change in circumstances.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.21(2), 99G.24(3), and 99G.27.

531—14.8(99G,252J) Provisional MVM licenses. The lottery may issue a provisional MVM license to an applicant after receipt of a fully completed license application, the authorization for a complete personal background check, completion of a credit check, if applicable, and completion of a preliminary background check. The provisional MVM license shall expire at the time of issuance of the requested MVM license or 90 days from the date the provisional MVM license was issued, whichever occurs first, unless the provisional MVM license is extended by the lottery.

Notwithstanding the foregoing, the lottery will deny a provisional MVM 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 MVM 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 252J.2 and 252J.8 and Iowa Code Supplement sections 99G.9(3), 99G.21(2), 99G.25, and 99G.27.

531—14.9(99G) MVM placement and operation. Licensed MVM retailers shall locate their MVMs at their discretion, subject to the following requirements:

1. All MVMs shall be located only on licensed MVM premises.
2. No MVM shall be located in any establishment that is incompatible with the dignity of the state.
3. Only MVMs certified by the lottery's chief executive officer pursuant to rule 14.19(99G) may be placed in licensed MVM premises. A list of such certified MVMs may be obtained from the lottery.
4. Only graphics displays and audio authorized by the lottery shall be used on MVMs. MVM retailers shall make no changes, alterations, or additions to the lottery-authorized graphics displays, the lottery-authorized audio played by the MVMs, or to the cabinet exteriors of MVMs.
5. In cases where an MVM is located on an MVM premises not owned by the MVM retailer, the MVM retailer shall be solely responsible for securing the rights necessary to locate the MVM on such premises and shall provide proof of such rights to the lottery upon request. Under no circumstances shall the lottery be responsible to the MVM premises operator or owner as a consequence of the placement of an MVM by an MVM retailer.
6. Under no circumstances shall the lottery be responsible for the expense of installing electrical circuits or telecommunications lines or for any power or telecommunications services necessary to operate an MVM.

This rule is intended to implement Iowa Code Supplement sections 99G.7, 99G.9(3), and 99G.21.

531—14.10(99G) Duplicate licenses. Upon the loss, mutilation, or destruction of any MVM license issued by the lottery, application for a duplicate shall be made. A statement signed by the MVM retailer, distributor, or premises operator that 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 Supplement sections 99G.9(3), 99G.21(2), 99G.24, and 99G.30.

531—14.11(99G) Reporting changes in circumstances of the MVM licensee. Every change in business structure of an MVM licensee, 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 an MVM licensee 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 Supplement sections 99G.9(3), 99G.21(2), and 99G.27(1).

531—14.12(99G) MVM license not a vested right. The possession of an MVM license issued by the lottery to any person or entity to act as an MVM retailer, MVM distributor, or MVM premises operator is a privilege personal to that person or entity and is not a legal right. The possession of an MVM license issued by the lottery does not automatically entitle that person or entity to lease or purchase an MVM or to sell tickets or obtain materials for any particular game.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.21(2), and 99G.7.

531—14.13(99G,252J) Suspension or revocation of an MVM retailer license.

14.13(1) The lottery may suspend or revoke any MVM retailer license issued pursuant to these rules for one or more of the following reasons:

- a.* Failing to meet or maintain the eligibility criteria for MVM retailer license application and issuance established by Iowa Code Supplement chapter 99G or these rules.
- b.* Violating any of the provisions of Iowa Code Supplement chapter 99G, these rules, or the MVM license terms and conditions.
- c.* 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 or electronic funds transfers that are not paid; fraud, deceit, misrepresentation, or other conduct prejudicial to the public confidence in the lottery.
- d.* If public convenience is adequately served by other licensed MVM retailers.
- e.* Failing to sell a minimum number of tickets as established by the lottery.
- f.* The MVM retailer has a history of thefts or other forms of losses of tickets or revenue.
- g.* Violating federal, state, or local law or allowing the violation of any of these laws in connection with the operation of MVMs.
- h.* Obtaining a license by fraud, misrepresentation, concealment or through inadvertence or mistake.
- i.* 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.
- j.* Denying the lottery or its authorized representative, including authorized local law enforcement agencies, access to any place where a licensed activity is conducted.
- k.* Failing promptly to 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.
- l.* Systematically pursuing economic gain in an occupational manner or context that 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 detrimental to the proper operation of an authorized lottery.
- m.* Failing to follow the instructions of the lottery for the conduct of any particular game or special event.
- n.* 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.
- o.* 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.
- p.* For a licensee who is an individual, when 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.

14.13(2) Advertising by MVM retailers.

a. When referring to MVMs or their associated games in advertisements, signage, promotional materials, or any other similar items, MVM retailers shall not use any false or misleading terms or statements including, but not limited to, “casino,” “slot machine,” “slots,” “video lottery,” “VLTs,” “video slots,” “video poker,” or any other related terms.

b. Upon suspicion that an MVM retailer has violated 14.13(2)“*a*,” the lottery shall investigate and provide a written warning to the MVM retailer describing the report of the event and of the potential violation of 14.13(2)“*a*.” In the event the lottery can substantiate the claim that an MVM retailer has violated 14.13(2)“*a*,” the lottery shall suspend the license of the MVM retailer in question for 7 days. If the lottery can substantiate the claim that an MVM retailer has violated 14.13(2)“*a*” a second time in a period of one year from the date of the first event, the lottery shall suspend the MVM retailer license for a period of 30 days. If the lottery can substantiate the claim that an MVM retailer has violated 14.13(2)“*a*” at a given MVM premises a third time in a period of one year from the date of the first event as described in this rule, the lottery shall suspend the license of the MVM retailer in question for one year.

14.13(3) The effective date of revocation or suspension of an MVM retailer license, or denial of the issuance or renewal of an MVM retailer 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.

14.13(4) If an MVM retailer license is suspended for more than 180 days from the effective date of the suspension, the lottery will revoke the license upon 15 days’ notice served in conformance with rule 531—12.13(99G,252J).

14.13(5) Upon revocation or suspension of an MVM retailer license of 30 days or longer, the MVM retailer shall surrender to the lottery, by a date designated by the lottery, the MVM license, lottery identification card, and all other lottery property. The lottery will settle the MVM retailer’s account as if the MVM retailer had terminated its relationship with the lottery voluntarily.

This rule is intended to implement Iowa Code section 252J.8 and Iowa Code Supplement sections 99G.9(3), 99G.21(2), 99G.24, 99G.27, 99G.30(3), and 99G.35.

531—14.14(99G,252J) Suspension or revocation of an MVM premises license.

14.14(1) The lottery may suspend or revoke any MVM premises license issued pursuant to these rules for one or more of the following reasons:

a. Failing to meet or maintain the eligibility criteria for MVM premises license application and issuance established by Iowa Code Supplement chapter 99G or these rules.

b. Violating any of the provisions of Iowa Code chapter 99G, these rules, or the MVM premises operator license terms and conditions.

c. Fraud, deceit, misrepresentation, or other conduct prejudicial to the public confidence in the lottery.

d. Violating federal, state, or local law or allowing the violation of any laws in connection with the production or operation of MVMs.

e. Obtaining an MVM premises license by fraud, misrepresentation, concealment or through inadvertence or mistake.

f. 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.

g. 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 detrimental to the proper operation of an authorized lottery.

h. 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.

i. 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.

j. When the lottery receives a certificate of noncompliance from the child support recovery unit in regard to the MVM premises operator who is an individual, unless the unit furnishes the department with a withdrawal of the certificate of noncompliance.

k. A history of thefts or other forms of losses of tickets or revenue occurs at the MVM premises.
l. Conduct or business activities on the premises which would undermine the public confidence in the lottery.

m. Substantiated instances of purchases of lottery tickets by underage persons on the MVM premises.

14.14(2) Advertising by MVM premises operators.

a. When referring to MVMs or their associated games in advertisements, signage, promotional materials, or any other similar items, MVM premises operators shall not use any false or misleading terms or statements including, but not limited to, “casino,” “slot machine,” “slots,” video lottery,” “VLTs,” “video slots,” “video poker,” or any other related terms.

b. Upon suspicion that an MVM premises operator has violated 14.14(2)“a,” the lottery shall investigate and provide a written warning to the MVM premises operator describing the report of the event and of the potential violation of 14.14(2)“a.” In the event the lottery can substantiate the claim that an MVM premises operator has violated 14.14(2)“a,” the lottery shall suspend the license of the MVM premises operator in question for 7 days. If the lottery can substantiate the claim that an MVM premises operator has violated 14.14(2)“a” a second time in a period of one year from the date of the first event on the same MVM premises, the lottery shall suspend the MVM premises operator license for a period of 30 days. If the lottery can substantiate the claim that an MVM premises operator has violated 14.14(2)“a” at a given MVM premises a third time in a period of one year from the date of the first event as described in this rule, the lottery shall suspend the license of the MVM premises operator in question for one year.

14.14(3) The effective date of revocation or suspension of a certification, or denial of the issuance or renewal of a certification, as specified in the notice required by Iowa Code section 252J.8, shall be 60 days following service of the notice. All other notices of revocation or suspension shall be 20 days following service upon a licensee.

14.14(4) Upon suspicion that an underage player has purchased one or more lottery products from an MVM, the lottery will investigate and provide a written warning to the MVM retailer and the MVM premises operator describing the report of the event and of the potential violation of Iowa Code Supplement section 99G.24(9). In the event the lottery can substantiate the claim that an underage player has purchased a product from an MVM, the lottery shall suspend the license of the MVM premises in question for 7 days. If the lottery can substantiate the claim that an underage player has purchased a product from an MVM a second time in a period of one year from the date of the first event on the same MVM premises, the lottery shall suspend the MVM premises license for a period of 30 days. If the lottery can substantiate the claim that an underage player has purchased a product from an MVM at a given MVM premises a third time in a period of one year from the date of the first event as described in this rule, the lottery shall suspend the license of the MVM premises in question for one year.

This rule is intended to implement Iowa Code section 252J.8 and Iowa Code Supplement sections 99G.9(3), 99G.21(2), 99G.24, and 99G.27.

531—14.15(99G,252J) Methods of service. Notice required by Iowa Code section 252J.8 and notice of a license revocation or a suspension for the reasons described in rules 14.13(99G,252J) and 14.14 (99G,252J) shall be as set forth in rule 531—12.13(99G,252J). 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 section 252J.8 and Iowa Code Supplement sections 99G.9(3), 99G.21(2), and 99G.24.

531—14.16(99G,252J) Licensee’s obligation. MVM retailers, distributors, premises operators, and license applicants shall keep the lottery informed of all court actions and all relevant 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 section 252J.8 and Iowa Code Supplement sections 99G.9(3) and 99G.21(2).

531—14.17(99G,252J) Calculating the effective date. In the event an MVM 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 an MVM 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 252J.8 and 252J.9 and Iowa Code Supplement sections 99G.9(3) and 99G.21(2).

531—14.18(99G) Financial responsibility of MVM retailers and MVM distributors. The lottery shall use the following guidelines to determine financial responsibility for a person seeking an MVM retailer license.

14.18(1) *Sole proprietorship.* The lottery will not require a bond from a sole proprietor if the account history for the applicant for the past two years discloses no more than four accounts past due and no accounts over 90 days past due.

14.18(2) *Partnership.* If the MVM license applicant is a partnership, 50 percent of the partners must meet the credit guidelines listed in subrule 14.18(1). If the credit history discloses that the requirements of subrule 14.18(1) are satisfied, the lottery will not require a bond.

14.18(3) *Fraternal or civic associations.* If the MVM license applicant is a fraternal association, civic organization or other nonprofit entity, the applicant must meet the credit guidelines set forth in subrule 14.18(1). If the fraternal or civic association or other nonprofit entity has no credit history or the credit history is incomplete as determined 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 14.18(1). If the credit history discloses that the requirements of subrule 14.18(1) are satisfied, the lottery will not require a bond.

14.18(4) *Corporations and limited liability companies in existence two years or more if a credit risk appraisal is available through a financial and credit reporting entity.* If the MVM 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 and a credit risk appraisal is available through a financial and credit reporting entity, the MVM license applicant must meet the following financial responsibility guidelines:

- a. The MVM license applicant is paying 60 percent of its suppliers on time or within terms; and
- b. The license applicant must have a credit risk appraisal provided by a financial and credit reporting entity that indicates the corporation or limited liability company's financial condition is fair or better. 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.

14.18(5) *Corporations and limited liability companies in existence less than two years or if a credit risk appraisal is not available through a financial and credit reporting entity.* If a corporation has been in existence for less than two years from the date of the application or a credit risk appraisal is not available through a financial and credit reporting entity, 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 or a credit risk appraisal is not available through a financial and credit reporting entity, 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 14.18(1). If the corporate officers or the members of the limited liability company meet the requirements set forth in subrule 14.18(1), the lottery will not require the corporation or the limited liability company to obtain a bond.

14.18(6) *Bonding requirements.* With respect to any MVM license applicant whose credit history does not meet the guidelines described in subrules 14.18(1) through 14.18(5), 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 amount

of \$250 per MVM to be operated by the MVM license applicant; provided, however, that the total amount of such bond shall not exceed \$50,000.

14.18(7) *Holding period for bond.* The lottery will hold the bond provided by the 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 Supplement sections 99G.7(1) and 99G.26.

531—14.19(99G) MVM certification. Before an MVM may be used to vend lottery products, it must be certified by the chief executive officer of the lottery. No MVM shall be placed in an MVM premises prior to being certified by the lottery. An MVM shall be certified only after all of the following requirements have been met:

14.19(1) The manufacturer of the MVM shall have passed a criminal background check pursuant to rule 531—2.16(99G).

14.19(2) The manufacturer shall have passed a financial responsibility background check.

14.19(3) The manufacturer shall demonstrate to the lottery's satisfaction that the MVM can perform all of the following:

a. Reliably vend lottery-approved tickets, either preprinted or printed on demand from a predetermined electronic "pack" of tickets.

b. Display, in the process of vending tickets, lottery-approved graphics and sound, indicating whether the vended ticket is a winner.

c. Communicate reliably with a central computer system, as described below, in order to transmit data.

d. Disable itself if it fails to communicate with the central computer system for a period not to exceed 50 hours.

e. Keep lottery tickets and cash receipts secure.

f. Account for the number of tickets sold and prizes awarded.

14.19(4) The manufacturer shall demonstrate the ability to securely, reliably, and consistently produce either preprinted tickets or electronic "packs" of tickets that meet the lottery's specifications as set forth in the game rules.

14.19(5) The manufacturer shall demonstrate that the MVM can operate reliably with a central computer system capable, at a minimum, of all of the following:

a. Communicating with MVMs located in all parts of the state.

b. Retrieving data from MVMs.

c. Transmitting data to MVMs.

d. Storing data received from MVMs.

e. Allowing secure access to data by the lottery and MVM retailers.

f. Producing printed reports in a format usable by the lottery.

g. Performing security checks on MVMs.

h. Consistently and reliably operating at least 16 hours per day.

14.19(6) The MVM manufacturer must commit contractually to provide the lottery with the data required by the lottery in a timely manner. The lottery may negotiate directly with manufacturers of certified MVMs for these services.

14.19(7) The manufacturer shall pay a fee of \$25, plus all actual costs incurred by the lottery in performing the necessary criminal background and financial responsibility checks. The lottery may require a manufacturer to pay the estimated cost of the criminal background and financial responsibility checks in advance.

14.19(8) As a condition of certification, the manufacturer shall provide to the lottery a working example of each model of MVM it proposes to have certified for testing and troubleshooting purposes. The lottery may keep the working example for such time as the model remains certified.

14.19(9) The certification process, including the financial responsibility background check, is solely for the use of the lottery. The lottery does not warrant the financial stability of any MVM manufacturer, and lottery certification of an MVM model shall not be considered to constitute a representation or a warranty that a particular MVM of that model is merchantable, fit for any particular purpose, or free of defects.

MVM retailers and distributors shall conduct their own due diligence, including financial responsibility, prior to purchasing or leasing an MVM.

14.19(10) No MVM manufacturer or any parent, subsidiary, or affiliated company or entity thereof shall be licensed as an MVM retailer or an MVM premises operator.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.30, and 99G.31.

531—14.20(99G,252J) Suspension or revocation of certification of an MVM.

14.20(1) The lottery may suspend or revoke any certification made pursuant to these rules for one or more of the following reasons:

a. Failing to meet or maintain the certification criteria established by Iowa Code Supplement chapter 99G or these rules.

b. Violating any of the provisions of Iowa Code Supplement chapter 99G or these rules.

c. Fraud, deceit, misrepresentation, or other conduct prejudicial to the public confidence in the lottery.

d. Violating federal, state, or local law or allowing the violation of any laws in connection with the production or operation of MVMs.

e. Obtaining a certification by fraud, misrepresentation, concealment or through inadvertence or mistake.

f. 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.

g. 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 detrimental to the proper operation of an authorized lottery.

h. 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.

i. 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.

j. Repeated failure or inability of the MVM or the associated central computer system to operate properly.

k. The occurrence of any event or the existence of any state of facts that would cause the MVM manufacturer to fail a criminal background check or a financial responsibility check.

14.20(2) The effective date of revocation or suspension of a certification, or denial of the issuance or renewal of a certification, as specified in the notice required by Iowa Code section 252J.8, shall be 60 days following service of the notice.

This rule is intended to implement Iowa Code section 252J.8 and Iowa Code Supplement sections 99G.9(3), 99G.21(2), 99G.24, and 99G.27.

531—14.21(99G) Requirements for the sale of tickets.

14.21(1) Prior to the vending of any lottery products by an MVM retailer, the lottery and the MVM retailer shall enter into a written agreement specifying the share of revenue to be remitted to the lottery, providing for the provisioning of tickets and paper stock, and other matters as the parties shall agree upon.

14.21(2) Tickets shall be sold at the price designated by the lottery unless the lottery specifically authorizes their sale at a different price.

14.21(3) No MVM retailer or any employee, member, or agent of an MVM retailer shall attempt to identify a winning ticket prior to the sale of the ticket.

14.21(4) MVM retailers shall arrange for the MVM premises operator or agent(s) or employees of the MVM premises operator to pay all prizes of \$600 or less during normal business hours at the MVM premises where the prize-winning ticket was vended. Prizes in excess of \$600 shall be paid at a lottery regional office or at lottery headquarters in Des Moines. Prizes to be claimed from an MVM premises operator must be claimed prior to the MVM premises' first close of business following the vending of the winning ticket. Prizes to be claimed from a lottery regional office or at lottery headquarters must be claimed within 90 days of the date of sale of the ticket.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.21(2), 99G.24, 99G.30, and 99G.31.

531—14.22(99G) Ownership of tickets and other property. All tickets or electronic “packs” of tickets accepted by a licensed MVM retailer are the property of the MVM retailer. After confirmation of delivery, the retailer is responsible for the condition and security of the tickets and for any losses resulting from tickets that become lost, stolen, or damaged. The lottery may credit MVM retailers for lost, stolen, or damaged tickets if the MVM retailer licensee has been billed for the lost, stolen, or damaged tickets and only if the lottery determines that the best interests of the lottery will be served by issuing a credit.

Unless otherwise indicated in writing, all lottery property provided to an MVM retailer for use in selling products, as opposed to property and tickets sold to an MVM retailer, remains the property of the lottery. The retailer shall deliver lottery property to the lottery upon request.

This rule is intended to implement Iowa Code Supplement sections 99G.7, 99G.9(3), 99G.24, and 99G.27.

531—14.23(99G) MVM retailer compensation. The lottery, with board approval, shall set the amount of MVM retailer compensation.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.21, and 99G.24.

531—14.24(99G) MVM retailer payment methods. MVM retailers are required to pay for lottery tickets or shares by means of an electronic funds transfer (EFT) from the MVM retailer’s account. The lottery may allow an MVM retailer to make payments by another method if the MVM retailer can show that the electronic funds transfer system imposes a significant hardship on the MVM retailer or if the lottery determines that the MVM retailer’s payment history justifies use of an alternative payment method.

This rule is intended to implement Iowa Code Supplement sections 99G.7, 99G.9(3), 99G.27, 99G.28, and 99G.40.

531—14.25(99G) Dishonored checks and electronic funds transfers. Any payment made to the lottery by an applicant for a license or by a licensed MVM retailer either by a check which is dishonored or by an electronic funds transfer which is not paid by the depository shall be grounds for immediate denial of the application for a license or for the suspension or revocation of an existing license. The lottery may assess a surcharge up to the maximum allowed by applicable state law for each dishonored check or EFT. The lottery may also alter the payment terms of an MVM retailer’s license and require an MVM retailer to reimburse the lottery for costs that occur as a result of a dishonored check or EFT. The lottery may disable all MVMs associated with the licensed MVM retailer until such time as the lottery receives certified funds to compensate for the dishonored item.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.24, and 99G.27.

531—14.26(99G) Inspection of lottery materials and licensed premises. MVM retailers and MVM premises operators shall allow the lottery to inspect lottery materials, tickets, and the premises. All books and records pertaining to the MVM retailer’s and the MVM premises operator’s lottery activities shall be available to the lottery for inspection and copying during the normal business hours of the MVM retailer or the MVM premises operator and between 8 a.m. and 5 p.m., Monday through Friday. All books and records pertaining to the MVM retailer’s and MVM premises operator’s lottery activities are subject to seizure by the lottery without prior notice.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.24, 99G.27, and 99G.28.

531—14.27(99G) Payment of MVM ticket prizes. Prizes won by MVM tickets may be paid only by an agent or employee of the MVM premises operator where the winning ticket was vended or by an agent or employee of the Iowa lottery authority, as specified in subrule 14.21(4). If the MVM premises operator is a nonprofit organization, members of the organization may also pay prizes if authorized by the organization. The MVM retailer shall be responsible for ensuring that prizes up to \$600 are paid.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.21(2), 99G.24, 99G.30, and 99G.31.

531—14.28(99G) Ticket sales restrictions.

14.28(1) The lottery reserves the right to limit or terminate the sale of tickets from any MVM or at any MVM premises if such sales may compromise the operation and integrity of the lottery, reflect conduct prejudicial to the public confidence in the lottery or reflect activity of an illegal nature under local, state or federal laws.

14.28(2) No officer, employee, agent, or subcontractor of any MVM manufacturer, or any spouse, child, sibling, or parent residing in such a person's household, shall purchase tickets from MVMs produced by that particular manufacturer. However, tickets may be purchased by the aforementioned persons from MVMs produced by other manufacturers. No officer, employee, agent, or subcontractor of any MVM retailer or distributor, or any spouse, child, sibling, or parent residing in such a person's household, shall purchase tickets from MVMs owned, distributed, serviced, or otherwise under the care, custody, or control of that MVM retailer or distributor. However, tickets may be purchased by the aforementioned persons from MVMs owned, distributed, serviced, or otherwise under the care, custody, or control of other MVM retailers or manufacturers.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.21(2), 99G.24, 99G.27, 99G.30, and 99G.31.

531—14.29(99G) Transfer of MVMs. MVMs may only be transferred to authorized entities.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.21(2), 99G.24, and 99G.27.

531—14.30(99G) Tax reporting. MVM retailers are responsible for tax reporting requirements related to MVM premises locations.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3) and 99G.21(2).

[Filed emergency 8/28/03—published 9/17/03, effective 8/28/03]

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CHAPTERS 15 to 17
Reserved

CHAPTER 18
INSTANT TICKET GENERAL RULES

[Prior to 1/14/87, Iowa Lottery Agency[526] Ch 8]
[Prior to 11/30/88, Instant Game General Rules[705] Ch 8]
[Prior to 9/17/03, see 705—Ch 8]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

531—18.1(99G) Authorization of instant ticket games. The lottery authority board authorizes the sale of instant tickets that meet the criteria set forth in this chapter.

This rule is intended to implement Iowa Code Supplement section 99G.9(3).

[ARC 2781C, IAB 10/26/16, effective 11/30/16]

531—18.2(99G) Definitions.

“Instant ticket” means a scratch ticket or an instaplay ticket as defined in this chapter.

“Instaplay ticket” means an instant ticket printed on lotto terminal paper with play symbols that are not concealed by a removable covering.

“Play symbols” means the numbers or symbols appearing under the removable covering on a scratch ticket or on the face of an instaplay ticket.

“Scratch ticket” as used in this chapter means an instant lottery ticket that is played by removing a rub-off covering on the ticket.

“Validation number” means the characters or numbers found on a ticket or ticket stub.

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

[ARC 2781C, IAB 10/26/16, effective 11/30/16]

531—18.3(99G) Instant ticket price. The lottery shall specify the price of scratch tickets and instaplay tickets in the specific game rules for each game.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3) and 99G.21.

[ARC 2781C, IAB 10/26/16, effective 11/30/16]

531—18.4(99G) Method of play. Winners of a prize may be determined by such activities as locating, matching, or adding the play symbols on the tickets or by any other play action approved by the lottery. The exact method of designating a winning ticket shall be determined by the lottery and shall be set forth in the specific game rules.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3) and 99G.21.

531—18.5(99G) Prizes.

18.5(1) The number and amount of prizes shall be determined by the lottery and set forth in the specific game rules.

18.5(2) At the lottery’s discretion, a scratch ticket game or an instaplay game may include a special prize event. The number of prizes and the amount of each prize in the prize event shall be determined by the lottery. The dates and times, as well as the procedures for conducting any elimination drawings or prize events, shall be determined by the lottery in the specific game rules. Finalists for prize events shall be selected in the manner stated in the specific game rules.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.21, and 99G.31.

[ARC 2781C, IAB 10/26/16, effective 11/30/16]

531—18.6(99G) Annuity prizes. If a prize offered in a scratch game or an instaplay game is an annuity, the prize shall consist of an initial prize payment followed by yearly installments as described in the specific game rules. If the current cash value of an annuity prize attributable to a single ticket or entry is less than \$100,000, the lottery may elect to pay the current cash value of the prize in one lump-sum payment.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.21, and 99G.31.

[ARC 2781C, IAB 10/26/16, effective 11/30/16]

531—18.7(99G) Disclosure of odds. The overall probability of purchasing a winning ticket shall be displayed on the Iowa lottery's Web site and in game literature made available by the lottery.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3) and 99G.21.

[ARC 1954C, IAB 4/15/15, effective 5/20/15]

531—18.8(99G) Claiming prizes.

18.8(1) *Claim period.* Scratch ticket prizes must be claimed within 90 days of the announced end of the scratch game. Instaplay ticket prizes must be claimed within 90 days of the date of sale of the instaplay ticket.

18.8(2) *Prizes claimed at retailer.* The specific game rules shall specify prizes that shall be claimed from the retailer. To claim a prize from a retailer, the winner shall sign the back of the winning ticket and fill out a claim form if required by the specific game rules. If a retailer can verify the claim, the retailer shall pay the prize. If a retailer cannot verify the claim, the player shall submit the ticket and a completed claim form to the lottery. If the claim is validated by the lottery, a draft shall be forwarded to the player in payment of the amount due. If the claim is not validated by the lottery, the claim shall be denied and the player shall be promptly notified.

18.8(3) *Prizes claimed at lottery.* The specific game rules shall specify prizes that may be claimed only from the lottery. To claim a prize from the lottery, the player may personally present the completed claim form obtained from a licensed retailer or any lottery office and the ticket to any lottery office or may mail the ticket and claim form to the Iowa Lottery Authority, 13001 University Avenue, Clive, Iowa 50325-8225. If the claim is validated by the lottery, the prize or a check, warrant, or draft shall be forwarded to the player in payment of the amount due less any applicable state or federal income tax withholding. If the claim is not validated by the lottery, the claim shall be denied and the player shall be promptly notified.

18.8(4) *Prizes in special events.* The specific game rules shall set forth the manner in which prizes won in special events or drawings may be claimed.

18.8(5) *Variation by specific game rules.* The specific game rules may vary the terms of this rule in respect to the manner in which prizes are claimed or the claim period applicable to any scratch or instaplay game or special event.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.21, and 99G.31.

[ARC 1954C, IAB 4/15/15, effective 5/20/15; ARC 2781C, IAB 10/26/16, effective 11/30/16]

531—18.9(99G) Ticket validation requirements.

18.9(1) To be a valid scratch ticket, a ticket must meet all of the following validation requirements. A ticket must:

- a. Have been issued in an authorized manner as determined by the lottery.
- b. Not be altered, unreadable, reconstructed or tampered with in any manner.
- c. Not be counterfeit in whole or in part.
- d. Not be stolen or appear on any list of omitted tickets on file with the lottery.
- e. Be complete and not blank or partially blank, miscut, misregistered, defective, or printed or produced in error.
- f. Have play symbols and captions as described in the specific game rules. All symbols, numbers and codes must be present in their entirety, legible, right side up, and not reversed in any manner.
- g. Have the appropriate bar code, pack-ticket number, retailer verification code and security code.
- h. Have a validation number that appears on the lottery's official list of validation numbers of winning tickets. A ticket with that validation number shall not have been previously paid.
- i. Pass all additional validation requirements stated in the specific game rules and any confidential validation requirements established by the lottery.

18.9(2) To be a valid instaplay ticket, a ticket must meet all of the following validation requirements. A ticket must:

- a. Have been issued in an authorized manner as determined by the lottery.
- b. Not be altered, unreadable, reconstructed or tampered with in any manner.
- c. Not be counterfeit in whole or in part.

- d. Not be stolen, canceled, or appear on any list of omitted or test tickets on file with the lottery.
- e. Be complete and not blank or partially blank, miscut, misregistered, defective, or printed or produced in error.
- f. Have play symbols and captions as described in the specific game rules. All symbols, numbers and codes must be present in their entirety, legible, right side up, and not reversed in any manner.
- g. The information on the ticket or share must correspond precisely with the lottery's computer record.
- h. The ticket or share serial number must appear in its entirety, and correspond, using a computer validation file, to the winning game play or plays printed on the ticket or share.
- i. A ticket or share shall be void unless the ticket or share is printed on a paper stock roll that was validly issued to and used, at the time of the play, by the retailer from whom the ticket or share was purchased.
- j. Pass all additional validation requirements stated in the specific game rules and any confidential validation requirements established by the lottery.

18.9(3) Any ticket not passing all applicable validation requirements is invalid and is ineligible for any prize. The chief executive officer's determination that a ticket is invalid is final.

The chief executive officer, in the chief executive officer's sole discretion, may choose to pay an amount equal to the prize that would have been won on an invalid ticket if the lottery is able to determine the prize which would have been won by use of a symbol, number, color code, or other mechanism. The chief executive officer's decision as to whether to pay a player the sum equal to the prize on an invalid ticket is final.

If an invalid ticket is purchased by a player, the only responsibility or liability of the lottery shall be to replace the invalid ticket with an unplayed ticket from the same game or any other game or issue a refund of the sale price.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.21, and 99G.31.
[ARC 2781C, IAB 10/26/16, effective 11/30/16]

531—18.10(99G) Official end of game. The lottery shall announce the official end of each scratch game and each instaplay game. Retailers may continue to sell tickets for each game up to the cutoff date specified by the lottery.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3) and 99G.21.
[ARC 2781C, IAB 10/26/16, effective 11/30/16]

531—18.11(99G) Board approval of games. The lottery shall provide board members with a written description of each specific scratch game and each specific instaplay game. The chairperson or a quorum of the board may call a special meeting to review the instant game selection. The board shall not contest the selection of a scratch game or an instaplay game more than five days after receiving written notice of the selection.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3) and 99G.21.
[ARC 2781C, IAB 10/26/16, effective 11/30/16]

[Filed emergency 7/12/85—published 7/31/85, effective 7/12/85]

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[Filed ARC 2781C (Notice ARC 2660C, IAB 8/3/16), IAB 10/26/16, effective 11/30/16]

CHAPTER 19
PULL-TAB GENERAL RULES

[Prior to 9/17/03, see 705—Ch 11]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

531—19.1(99G) Authorization of pull-tab games. The lottery authority board authorizes the lottery to sell pull-tab tickets which meet the criteria specified in this chapter.

This rule is intended to implement Iowa Code Supplement section 99G.9(3).

531—19.2(99G) Definitions. As used in this chapter the following definitions are applicable.

“Low-tier prizes” are prizes which are included in the guaranteed low-end prize structure of a pull-tab game.

“Pull-tab tickets” are instant lottery tickets that are played by opening tabs to reveal if a prize was won. “Pull-tab tickets” do not include “scratch tickets” that are played by removing a rub-off covering from the play area or instaplay tickets that are played using the play symbols printed on lotto terminal paper.

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

[ARC 2781C, IAB 10/26/16, effective 11/30/16]

531—19.3(99G) Pull-tab ticket price. The lottery shall specify the price of pull-tab tickets in the specific game rules for each game.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3) and 99G.21.

531—19.4(99G) Method of play. Each pull-tab ticket shall have tabs under which play symbols shall appear. A winning ticket shall be determined by matching, aligning, adding, or locating symbols or numbers under the tabs.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3) and 99G.21.

531—19.5(99G) Ticket validation requirements.

19.5(1) Winning tickets shall be validated by use of a symbol, number, or color-coded marking. A ticket is not valid if it fails to meet any of the following requirements. The ticket must:

- a. Have been issued by the Iowa lottery authority in an authorized manner.
- b. Not be altered, unreadable, reconstructed, or tampered with in any manner.
- c. Not be counterfeit in whole or in part.
- d. Not be stolen or appear on any list of omitted tickets on file with the lottery.
- e. Be complete and not blank or partially blank, miscut, misregistered, defective, or printed in error.
- f. Have the exact play symbols and captions specified in the specific game rules.
- g. Pass all validation tests including confidential validation tests.

If a ticket is invalid when sold it is not eligible to receive any prize, and the purchaser’s sole remedy is to submit the ticket to lottery headquarters to obtain a refund of the retail sale price. The lottery shall have no liability or responsibility for tickets invalidated after the time of sale.

The chief executive officer may, in the chief executive officer’s sole discretion, choose to pay a sum equal to the prize on an invalid ticket if the lottery is able to determine the prize that would have been won on the invalid ticket by use of a symbol, number, color code or other mechanism. The chief executive officer’s determinations that a ticket is valid or invalid, that a ticket was valid when sold and was subsequently invalidated, and whether a sum equal to the prize on an invalid ticket will be paid shall be final.

19.5(2) Reserved.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.21, and 99G.31.

531—19.6(99G) Prizes. The number and the amount of prizes shall be determined by the lottery and set forth by the specific game rules.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.21, and 99G.31.

531—19.7(99G) Disclosure of odds. The overall probability of purchasing a winning ticket shall be stated on the Iowa lottery's Web site and in game literature made available by the lottery.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3) and 99G.21.

[ARC 1954C, IAB 4/15/15, effective 5/20/15]

531—19.8(99G) Claiming prizes.

19.8(1) *Claim period.* Prizes must be claimed within 90 days of the announced end of the pull-tab game.

19.8(2) *Prizes claimed at retailer.* The specific game rules shall specify prizes that shall be claimed from the retailer. To claim a prize from a retailer, the winner shall sign the back of the winning ticket and fill out a claim form if required by the specific game rules. If a retailer can verify the claim, the retailer shall pay the prize. If a retailer cannot verify the claim, the player shall submit the ticket and a completed claim form to the lottery. If the claim is validated by the lottery, a draft shall be forwarded to the player in payment of the amount due. If the claim is not validated by the lottery, the claim shall be denied and the player shall be promptly notified.

19.8(3) *Prizes claimed at lottery.* The specific game rules shall specify prizes that may be claimed only from the lottery. To claim a prize from the lottery, the player may personally present the completed claim form obtained from a licensed retailer or any lottery office and the ticket to any lottery office or may mail the ticket and claim form to the Iowa Lottery Authority, 13001 University Avenue, Clive, Iowa 50325-8225. If the claim is validated by the lottery, the prize or a check, warrant, or draft shall be forwarded to the player in payment of the amount due less any applicable state or federal income tax withholding. If the claim is not validated by the lottery, the claim shall be denied and the player shall be promptly notified.

19.8(4) *Prizes in special events.* The specific game rules shall set forth the manner in which prizes won in special events or drawings may be claimed.

19.8(5) *Variation by specific game rules.* The specific game rules may vary the terms of this rule in respect to the manner in which prizes are claimed or the claim period applicable to any pull-tab game or special event.

This rule is intended to implement Iowa Code sections 99G.9(3), 99G.21, and 99G.31.

[ARC 1954C, IAB 4/15/15, effective 5/20/15]

531—19.9(99G) Owner of ticket. Retailers shall pay prizes only to persons who present winning tickets. The person in physical possession of a pull-tab ticket shall be deemed to be the owner of the ticket who is entitled to prize payment regardless of any signature or other writing that may have been placed on the ticket after purchase.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.21, and 99G.31.

531—19.10(99G) Disputed claim. If a purchaser and a retailer cannot agree as to whether a prize should be paid on any ticket, the purchaser may submit the ticket to any lottery office. The chief executive officer's determination as to whether a prize shall be awarded is final.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.21, and 99G.31.

531—19.11(99G) Lottery logo. All pull-tab tickets sold by the Iowa lottery authority shall be conspicuously marked with the logo of the lottery.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.21, and 99G.31.

531—19.12(99G) End of game. The chief executive officer shall announce the end of any pull-tab game or games.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3) and 99G.21.

531—19.13(99G) Board approval of game. After selection of a particular pull-tab game, the lottery shall provide board members with written notification that a particular game has been selected. The chairperson of the board or a quorum of the board may call a meeting to review the game selection. If the lottery board

does not disapprove of the game within five working days following receipt of notice that the game has been selected, the board may not later disapprove of the game.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3) and 99G.21.

[Filed emergency 9/18/87—published 10/7/87, effective 9/18/87]

[Filed emergency 4/15/88—published 5/4/88, effective 4/15/88]

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[Filed emergency 8/12/94—published 8/31/94, effective 9/1/94]

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CHAPTER 20
COMPUTERIZED GAMES—GENERAL RULES

[Prior to 10/12/94, see 705—Chapters 9, 10, 12, 13, 14, 15]

[Prior to 9/17/03, see 705—Ch 13]

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

531—20.1(99G) Authorization of computerized lottery games. The lottery authority board authorizes the sale of computerized games to be played in compliance with the criteria set forth in this chapter.

This rule is intended to implement Iowa Code Supplement section 99G.9(3).

531—20.2(99G) Computerized lottery definitions. For the purposes of interpreting this chapter, the following definitions are applicable unless the context requires a different meaning.

“Central computer” or *“central computer system”* is a computer system designated to control, monitor, and communicate with the terminals and to record the transactions processed by the terminals.

“Drawing” means that process that is used to randomly select a winning combination for the game plays.

“Drawing machine” means a computer or other device that determines the outcome of the process of selection of winning and losing tickets or shares in a lottery.

“Easy pick” means the random selection by the computer terminal of a valid play for the game that was selected.

“Electronic ticket” or *“e-ticket”* means a lottery ticket or share for which an electronic visual facsimile on a computer is available from the lottery.

“Game” shall mean any computerized game conducted by the lottery.

“Game ticket” or *“ticket”* means a ticket or share produced by a terminal or manufacturing process that is the tangible evidence to prove participation in a game.

“Gaming machine” means a drawing machine that upon winning dispenses coins, currency, or a ticket, credit, or token that is redeemable for cash or a prize.

“Instant ticket vending machine” or *“ITVM”* means a vending machine or self-service kiosk that dispenses printed paper lottery tickets, with or without a scratch-off area.

“Lotto terminal” means a vending machine that prints and dispenses tickets or shares that will be determined to be winning or losing tickets or shares either by a predetermined pool drawing machine or by a drawing machine at some time subsequent to the dispensing of the tickets or shares.

“Monitor vending machine” means a vending machine that dispenses or prints and dispenses lottery tickets or shares that have been determined to be winning or losing tickets or shares by a predetermined pool drawing machine prior to the dispensing of the tickets or shares.

“On-line vending machine” means a vending machine that prints and dispenses lottery tickets or shares that have been determined to be winning or losing tickets or shares by a predetermined pool drawing machine prior to the dispensing of the tickets or shares.

“Panel” or *“game panel”* means that area of a play slip that contains marked squares that may be played.

“Play” or *“game plays”* means the selection of an appropriate number of available variables that constitutes a valid entry in the game or the purchase of a ticket or share with a sequentially generated variable appearing on the face of the ticket or share that constitutes a valid entry in a pool exhaustion game.

“Play slip” means a card used by the player in marking a player’s game plays.

“Pool exhaustion game” means a game where a predetermined pool of plays is established.

“Predetermined pool drawing machine” means a computer or other device external to a lotto terminal, instant ticket vending machine, on-line vending machine, or monitor vending machine that predetermines winning and losing tickets or shares, assigns them to preprogrammed and prepackaged sequential electronic pool files and subsequently utilizes the files in production and distribution of electronic game cards and paper game tickets or shares produced in manufactured packs or through lotto terminals or vending machines.

“Retailer” means the person or entity licensed by the Iowa lottery to sell game plays.

“Specific game rules” means the rules promulgated by the lottery pursuant to Iowa Code Supplement section 99G.9(4) that contain the features of a particular computerized game or promotion.

“Terminal” means a device that is authorized by the lottery to function with a central computer system for the purpose of issuing, entering, receiving, and processing lottery transactions.

“Vending machine” means a lottery ticket or share dispensing machine either with a mechanical operating mechanism or with computer components that perform accounting functions and activate the ticket or share dispensing mechanism.

“Winning numbers” means the selection of an appropriate number of the variables, randomly selected at each drawing, which shall be used to determine winning plays contained on a game ticket or share.

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

[ARC 2781C, IAB 10/26/16, effective 11/30/16]

531—20.3(99G) Method of play. If required by the specific game rules, a player must select an appropriate number of the available game variables. A player may select each game variable by marking a play slip and submitting the play slip to a retailer, by asking a retailer to manually enter the game variables, or by purchasing an “easy pick” ticket from a retailer. Players may also purchase game plays from player-activated terminals by use of a touch screen if player-activated terminals are available. A drawing is held in which an appropriate number of the game variables are drawn on a random basis.

This rule is intended to implement Iowa Code sections 99G.9(3) and 99G.21.

[ARC 5991C, IAB 10/20/21, effective 11/24/21]

531—20.4(99G) Cancellation by a player. A ticket or share may be canceled by returning the ticket or share to the selling retailer provided that the ticket or share is returned to the retailer the same day it was purchased in time to permit canceling to be fully completed prior to the closing time for that drawing. In the event that a ticket or share is canceled, the player will be entitled to a refund from the retailer equal to the purchase price of the ticket or share.

Cancellations will not be allowed in certain games as outlined in the specific game rules.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3) and 99G.21.

531—20.5(99G) Prizes and odds. The amount of prizes and the odds of winning shall be set forth in the specific game rules. Specific game rules may allow alternative prize structures.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.21, and 99G.31.

531—20.6(99G) Payment of annuity jackpot prizes. The lottery may offer cash prizes, annuitized installment prizes, and prizes with cash or annuity payment options available to the winners. If the jackpot prize or share of the jackpot prize will be paid as an annuity, it will consist of the initial payment followed by such number of yearly installments as may be provided in the specific game rules for the game unless the cash value of the annuity prize attributable to a single play is less than \$100,000. If the cash value of the annuity prize attributable to a single play is under \$100,000, the lottery may elect to pay the cash value of the prize in one lump-sum prize payment. This rule does not apply to multistate or other multijurisdictional lottery games. Provision for payment of prizes for multistate and other multijurisdictional games shall be outlined in the specific game rules for such games.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.21, and 99G.31.

531—20.7(99G) Unclaimed prizes. Unclaimed jackpot prizes, shares of the jackpot prize, and other lotto prizes do not increase a prize simultaneously won by any other player in the game. Unclaimed jackpot shares shall be added to future jackpot prize pools at times determined by the lottery. Other unclaimed prizes shall be added to future prize pools for any lottery game. This rule shall also apply to such games offered in Iowa, except as may otherwise be provided in the specific game rules of a multistate lottery or other multijurisdictional lottery with which the Iowa lottery may be affiliated.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.21, and 99G.31.

531—20.8(99G) Disclosure of odds. The overall probability of purchasing a winning ticket or share shall be stated on the Iowa lottery’s website and in the game literature made available by the lottery.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3) and 99G.21.
[ARC 1954C, IAB 4/15/15, effective 5/20/15]

531—20.9(99G) Price. The price of a game play shall be outlined in the specific game rules.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3) and 99G.21.

531—20.10(99G) Changes for special promotions. The lottery may alter the price of the tickets or shares, features, or prizes of the game or drawings to accommodate special promotions. Alterations made by the lottery shall be contained in the specific rules for the promotion.

This rule is intended to implement Iowa Code Supplement sections 99G.7, 99G.9(3), and 99G.21.

531—20.11(99G) Ticket or share ownership and prize entitlement.

20.11(1) A ticket or share is owned by its physical possessor until a signature is placed on the back of a ticket in the area designated for signature. When a signature is placed on the back of the ticket or share in the designated space, the person whose signature appears in the designated space is the owner of the ticket or share and is entitled to any prize attributable to the ticket or share.

20.11(2) Notwithstanding any name or names submitted on a claim form, the lottery shall make payment to the person whose signature appears on the back of the ticket or share in the designated space. If the signatures of more than one person appear in that space, the lottery shall make payment to the person identified on the winner's claim form to receive payment, which designation shall be made by all persons whose signatures appear on the reverse side of the ticket or share. In the event that all persons whose signatures appear in the appropriate space cannot identify one person to whom payment should be made, the lottery may withhold payment until the proper payee is determined. In no event shall more than one person be entitled to a particular prize.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.21, and 99G.31.

531—20.12(99G) Ticket validation requirements.

20.12(1) All claims for prizes are subject to validation by the lottery. To be a valid ticket or share and eligible to receive a prize, all of the following requirements must be satisfied.

a. The ticket or share must have been issued by the lottery directly or through a retailer, via a terminal, in an authorized manner.

b. The information on the ticket or share must correspond precisely with the lottery's computer record.

c. The ticket or share serial number must appear in its entirety, and correspond, using a computer validation file, to the winning game play or plays printed on the ticket or share.

d. A ticket or share shall be void unless the ticket or share is printed on a paper stock roll that was validly issued to and used, at the time of the play, by the retailer from whom the ticket or share was purchased.

e. The ticket or share must not be produced in error, counterfeit in whole or in part, altered, mutilated, unreadable, tampered with in any manner, incomplete, blank or partially blank, miscut, or defective.

f. The ticket or share must pass all other security criteria determined by the lottery.

g. The ticket or share must not be stolen.

h. The ticket or share must not be canceled.

i. The ticket or share must pass additional validation requirements that may be stated in the specific game rules.

20.12(2) In the event that a ticket or share fails to pass all of the validation criteria set forth in this rule and the specific game rules, it is invalid and ineligible for any prize. The lottery, in its sole discretion, may choose to pay a sum equal to the prize on an invalid ticket or share if the lottery can determine the prize that would have been won by the ticket or share by use of a symbol, code number, color code, or other mechanism. The lottery's decisions as to whether a ticket or share is invalid and whether a sum equal to the prize on an invalid ticket or share will be paid are final. If the lottery determines that a ticket or share is not eligible to receive a prize or a sum equivalent to the prize amount, the lottery may replace the invalid

ticket or share with a ticket or share of equivalent sale price from any current lottery game or refund the purchase price of the ticket or share. Replacement of the ticket or share, or refund of the purchase price, shall be the claimant's sole and exclusive remedy.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.21, and 99G.31.

531—20.13(99G) Claim period. All prizes for games not associated with another state's lottery must be claimed as directed within 90 calendar days of the drawing in which the prize was won, unless otherwise specified in the specific game rules for the game. All prizes for games associated with another state's lottery must be claimed as directed within the specific game rules. For purposes of determining the claim period, the drawing date shall not be counted. If a prize is claimed by mail, the lottery must actually receive the ticket or share and claim form within the claim period. Any prize not properly claimed within the specified period shall be forfeited. The claim period for a game may be altered by the lottery in the specific game rules.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.21, and 99G.31.

531—20.14(99G) Manner of claiming prizes.

20.14(1) To receive payment for a prize or prizes on any single game ticket or share that total \$600 or less, the winner may take the signed ticket or share directly to any lottery retailer authorized to sell and validate the game, or to any lottery office, or mail the signed ticket or share, along with a completed claim form, to Iowa Lottery Authority, 13001 University Avenue, Clive, Iowa 50325-8225.

If there is any alteration, mutilation, tear, or other ambiguity on the ticket or share, the retailer is not authorized to make direct payment of a prize and a claim form and the ticket or share must be submitted to the lottery.

20.14(2) To receive payment for a prize or prizes on any single game ticket or share that total more than \$600, the winner may submit the signed ticket or share and a completed claim form directly to any lottery office. The winner may also mail the signed ticket or share and claim form to Iowa Lottery Authority, 13001 University Avenue, Clive, Iowa 50325-8225.

20.14(3) Claim forms are available at all computerized lottery retailers and lottery offices. The lottery or, at the lottery's direction, a lottery retailer may require the person claiming a prize of any amount to fill out a claim form.

20.14(4) If a prize is claimed by mail, the ticket or share and the claim form must actually be received by the lottery within the claim period.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.21, and 99G.31.

[ARC 1954C, IAB 4/15/15, effective 5/20/15]

531—20.15(99G) Presentation of ticket. No prize payments shall be made unless the player submits a valid, uncanceled ticket or share. A play slip has no pecuniary or prize value and is not evidence of ticket purchase or of numbers selected.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.21, and 99G.31.

531—20.16(99G) One prize per game play. The holder of a winning ticket or share may win only one prize per game play in connection with the winning numbers drawn and shall be entitled only to the prize won by those numbers in the highest matching prize category.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.21, and 99G.31.

531—20.17(99G) Corrections. The lottery reserves the right to correct and adjust, up or down, the amount of any prize or prizes, whether all or part of the prize or prizes has been paid, if it is determined that one or more players are entitled to a portion of a prize and were not included in the prize calculations or were included in the prize calculations by mistake.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.21, and 99G.31.

531—20.18(99G) Risk of error. The placing of plays is done at the player's own risk. It is solely the player's responsibility to verify the accuracy of game plays and all other data printed on the ticket. In the

event of any error, the player's only remedy is cancellation of the ticket or share according to the procedure specified in this chapter. The lottery and lottery retailers have no other responsibility for tickets or shares printed in error.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3), 99G.21, and 99G.31.

531—20.19(99G) Multidraw plays and advance plays. Multidraw plays and advance plays may be available.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3) and 99G.21.

531—20.20(99G) Drawings. Drawings will be held as specified in the game rules.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3) and 99G.21.

531—20.21(99G) Cancellation or delay of play. The lottery reserves the right to cancel or delay drawings or ticket or share sales in the event of technical difficulties, and on days of special importance or on days the drawings would be impractical or inappropriate.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3) and 99G.21.

531—20.22(99G) Pool exhaustion game—method of play.

20.22(1) Players may purchase tickets or shares for a specific game. Each ticket or share sold for a pool exhaustion game will be generated separately. Tickets or shares shall be sold against the pool until the pool of plays is exhausted or until the game ends in accordance with the specific game rules.

20.22(2) Each ticket or share will bear a sequentially generated variable on the face of the ticket or share.

20.22(3) Drawings for the prizes for a specific game shall randomly select a winner or winners from the tickets or shares actually sold. The drawing method shall be described in the specific game rules.

20.22(4) Prizes shall be awarded as specified in the specific game rules.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3) and 99G.21.

531—20.23(99G) Prize insurance fund.

20.23(1) The lottery may provide that up to 10 percent of the funds designated for the jackpot prize level in the prize structure of the specific game rules for a game or that any prize funding not awarded by the conclusion of the relevant claim period for a fixed-prize game shall be transferred to a prize insurance fund.

20.23(2) The prize insurance fund may be used for any of the following purposes:

a. To pay prizes for any on-line game prize obligation if the amount available to fund an on-line game prize is insufficient;

b. To support a special promotion to retire an on-line game, e.g., a television show or a second chance drawing;

c. To transfer amounts to a successor game to pay prize obligations for a different on-line game.

This rule is intended to implement Iowa Code Supplement sections 99G.9(3) and 99G.21.

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CHAPTER 21 DRAWINGS AND CONTESTS

Chapter rescission date pursuant to Iowa Code section 17A.7: 1/1/28

531—21.1(99G) Authorization of drawings and contests. The lottery authority board authorizes drawings and contests that meet the criteria set forth in this chapter.

This rule is intended to implement Iowa Code section 99G.9(3).

[ARC 9611B, IAB 7/13/11, effective 6/22/11]

531—21.2(99G) Definitions.

“Contest” means a lottery event that may or may not involve nonwinning tickets in which entries are selected as winners and prizes are valued at a total of \$5,000 or less. If an individual prize is greater than \$600 or at the lottery’s discretion, a player must fill out a claim form and the contest will have written rules informally posted at the event.

“Drawing” or *“second-chance drawing”* means a lottery event involving a random selection of an entry or entries for prize(s) in which entrants may either use a nonwinning Iowa lottery ticket as an entry or, at the lottery’s discretion, may enter the drawing using points earned from entering tickets through the Internet or an entry through an alternative method for which a purchase is not necessary.

“Nonwinning ticket” means a ticket that did not win in the original game for which it was printed.

“Presentation” of a drawing or contest entry, for purposes of this chapter and validation of the same, means entering the ticket into a drawing or contest through the U.S. mail or Internet, as permitted by the rules of the drawing or the description of the contest.

This rule is intended to implement Iowa Code sections 99G.9(3) and 99G.21.

[ARC 9611B, IAB 7/13/11, effective 6/22/11]

531—21.3(99G) Price for drawings or contests. There shall be no cost to enter a drawing or contest beyond the original ticket price already paid. At its discretion, the lottery may designate certain drawings that may be entered with a designated number of points earned by entry of nonwinning tickets through the VIP club or by some other lottery-approved method.

This rule is intended to implement Iowa Code sections 99G.9(3) and 99G.21.

[ARC 9611B, IAB 7/13/11, effective 6/22/11]

531—21.4(99G) Method of play. Contest or drawing winners may be determined from a computer-generated list of all the entries submitted during the eligibility period or by any other method approved by the lottery. The secure drawing system will generate a list of winning entry numbers based on the prize levels. Alternates will be drawn as determined by the lottery. Other methods of choosing a winning entry may be determined by the lottery and, if utilized, shall be set forth in the specific drawing rules or contest description.

This rule is intended to implement Iowa Code sections 99G.9(3) and 99G.21.

[ARC 9611B, IAB 7/13/11, effective 6/22/11]

531—21.5(99G) Prizes.

21.5(1) The number and amount of prizes for a drawing or contest shall be determined by the lottery and set forth in the specific drawing rules or contest description.

21.5(2) At the lottery’s discretion, a drawing or contest may include a special prize event. The number of prizes, the amount of each prize, the dates and times of the contests or drawings, as well as the procedures for conducting elimination drawings or prize events, shall be determined by the lottery and set forth in the specific drawing rules or contest description. Finalists for prize events shall be selected in the manner stated in the specific drawing rules or contest description.

This rule is intended to implement Iowa Code sections 99G.9(3), 99G.21 and 99G.31.

[ARC 9611B, IAB 7/13/11, effective 6/22/11]

531—21.6(99G) Disclosure of odds. Because the odds will vary based on the number of entrants in each contest or drawing, the odds will not be posted.

This rule is intended to implement Iowa Code sections 99G.9(3) and 99G.21.

[ARC 9611B, IAB 7/13/11, effective 6/22/11]

531—21.7(99G) Claiming prizes. The specific drawing rules or contest description shall set forth the manner in which prizes won shall be claimed.

This rule is intended to implement Iowa Code sections 99G.9(3), 99G.21 and 99G.31.

[ARC 9611B, IAB 7/13/11, effective 6/22/11]

531—21.8(99G) Entry validation requirements. To be a valid entry, the entry must be a legally acquired nonwinning Iowa lottery ticket identified as an entry for the particular promotion. At its discretion, the lottery may include legally obtained winning and nonwinning Iowa lottery online tickets in promotions.

This rule is intended to implement Iowa Code sections 99G.9(3), 99G.21 and 99G.31.

[ARC 9611B, IAB 7/13/11, effective 6/22/11]

531—21.9(99G) Owner of a ticket. The lottery and its VIP club vendor, if any, shall pay prizes in an Internet-based drawing or contest only to persons who present the selected tickets by entering them into the drawing through the online entry form or other entry mechanism. Players are encouraged to sign the original ticket to prevent entry of the ticket by another party into the drawings or contests. The signature on the ticket indicates the owner of the ticket. If no signature is present on the ticket, the owner of the ticket is the possessor of the ticket. If there is a question as to the ownership of a ticket, the chief executive officer's determination as to whether and to whom a prize shall be awarded is final.

This rule is intended to implement Iowa Code sections 99G.9(3), 99G.21 and 99G.31.

[ARC 9611B, IAB 7/13/11, effective 6/22/11]

531—21.10(99G) Official end of drawing or contest period. The chief executive officer shall announce the end of any drawing or contest period.

This rule is intended to implement Iowa Code sections 99G.9(3) and 99G.21.

[ARC 9611B, IAB 7/13/11, effective 6/22/11]

[Filed Emergency ARC 9611B, IAB 7/13/11, effective 6/22/11]