



**Meeting Agenda
December 4, 2023**

1. Call to Order and Establishment of Quorum
2. Consideration of Minutes for Meeting of October 3, 2023
3. Report of the Executive Director
4. Rulemaking
 - A. Adoption: SGC-34-23-00012-P, Lottery Prize Assignment Processing Fee
 - B. Adoption: SGC-50-22-00009-RP, Purchase Location Requirements for Lottery Courier Services
 - C. Proposal: Prize Payment and Subscription Amendments
5. Adjudications
 - A. In the Matter of Todd Pletcher and In the Matter of the Disqualification of Forte from the 11th Race at Saratoga Race Course on September 5, 2022
 - B. In the Matter of Joseph Chindano
 - C. In Matter of Hillside Mini Mart
6. Consideration and Appointment of Gaming Facility Location Board Member
7. New & Old Business
8. Adjournment

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**New York State
Gaming Commission**

Minutes

Meeting of October 3, 2023

A meeting of the Commission was conducted in New York, New York.

1. Call to Order and Establishment of Quorum

Executive Director Robert Williams called the meeting to order at 2:16 p.m. Establishment of a quorum was noted by Acting Secretary Kristen Buckley. In attendance were Chairman Brian O'Dwyer, and Commissioners John Crotty, Sylvia Hamer, Peter Moschetti and Jerry Skurnik.

2. Consideration of Minutes for Meeting of August 3, 2023

The Commission considered previously circulated draft minutes of the meeting conducted on August 3, 2023. The minutes were accepted as circulated.

3. Report of the Executive Director

The Executive Director addressed the process and decision making that surrounded the Pick-5 wagering at Saratoga Race Course on August 6, 2023 and the number of equine fatalities that occurred during this past summer's racing meet at the Saratoga Race Course. His report was supplemented with a presentation by Commission Equine Medical Director Scott Palmer. The Director also provided a status regarding the Request For Applications for additional casino licenses process.

4. Rulemaking

Prior to taking up the rulemaking agenda, the Chairman requested an update on rule GC-29-23-00004-P, Attending Veterinarian Examinations in Thoroughbred Racing proposal, which came off public comment on September 18, 2023 but was not advanced by staff. Mr. Williams provided an overview of circumstance changes and comments that require additional time for consideration before a staff recommendation can be finalized.

A. SGC-29-22-00010-RP, Comprehensive Regulations for Interactive Fantasy Sports.

The Commission considered adoption of proposed rules to govern interactive fantasy sports, first addressing formal acceptance of public comments received for placement in the record.

ON A MOTION BY: Commissioner Moschetti
APPROVED: 5-0

The Commission then considered adoption of the proposed rulemaking.

ON A MOTION BY: Commissioner Skurnik
APPROVED: 5-0

B. SGC-31-23-00010-P, Sports Wagering Advertising and Marketing

The Commission considered adoption of rules to regulate sports wagering advertising, marketing, and promotion, with two proposed staff recommendations regarding clarifying. Commissioners first addressed formal acceptance of public comments received for placement in the record.

ON A MOTION BY: Commissioner Crotty
APPROVED: 5-0

The Commission then considered adoption of the proposed rulemaking.

ON A MOTION BY: Commissioner Hamer
APPROVED: 5-0

C. Proposal: Claiming Rules Revisions in Thoroughbred Racing

The Commission considered withdrawal of a previously proposed consensus rulemaking and proposal of the same as a standard rulemaking.

ON A MOTION BY: Commissioner Skurnik
APPROVED: 5-0

5. Adjudication: In the Matter of Linda Rice

The Commission, having considered this matter at a meeting conducted pursuant to the judicial or quasi-judicial proceedings exemption of N.Y. Public Officers Law § 108.1, announced that it had determined upon a 6-0 vote to fine Ms. Rice \$100,000 for transgressions evidenced in the hearing officer report.

In announcing the decision, the Chairman noted that the Appellate Division, Third Department had agreed with the Commission's finding that Ms. Rice blatantly broke the rules of racing by conspiring with others to choose the optimal races for her horses but determined that the Commission's previously imposed revocation was unwarranted. The Chairman noted that the Commission respectfully disagreed with the decision but was compelled to follow it. He concluded that based on the record, the Commission determined to increase the fine since the initial fine was predicated on a three-year license revocation.

6. Discussion of Fanatics Ownership Acquisition

The Commission considered approval of FBG Enterprises Opco, LLC d/b/a Fanatics Betting and Gaming, a subsidiary of Fanatics Holdings, Inc. acquisition of PointsBet USA's subsidiary PointsBet New York LLC, a Platform Provider and Operator licensed in New York since January 24, 2022.

ON A MOTION BY: Commissioner Moschetti
APPROVED: 5-0

7. New & Old Business

No New or Old Business was discussed.

8. Adjournment

Before concluding, Chairman O'Dwyer noted displeasure with DraftKings insensitive promotion on September 11, 2023, and had requested DraftKings make a presentation regarding their promotion filtering and approval processes. He advised that DraftKings President Matt Kalish would be meeting with he and Commission staff to have a dialogue. Chairman O'Dwyer further noted that he had directed staff to examine the matter of licensed trainers owing significant back pay to their employees, several of whom hold H2-B visas. He also announced that the Commission had forged a partnership with the N.Y.S. Department of Labor, so the Commission is

notified when complaints regarding a trainer's business practices spur a labor investigation. The Chairman thanked Labor Commissioner Roberta Reardon for continuing to partner to protect the thousands of workers who take care of racehorses.

The meeting was adjourned at 3:26 p.m.

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Gaming Commission

One Broadway Center, P.O. Box 7500, Schenectady, NY 12301-7500
www.gaming.ny.gov

To: Commissioners

From: Edmund C. Burns

Date: October 24, 2023

Re: Adoption of Proposed Rulemaking for Lottery Prize Payment Assignments
Administrative Fee (9 NYCRR § 5002.11)

For Commission consideration is the adoption of a regulation to set forth the processing fee authorized by Tax Law section 1613(d)(7) for review of documentation concerning proposed lottery prize assignments. The Commission published a Notice of Proposed Rulemaking in the August 23, 2023 State Register, a copy of which is attached. The public comment period expired on October 23, 2023. No comments were received.

[REDACTED]

attachment

cc: Robert Williams, Executive Director
Gweneth Dean, Director, Division of Lottery

regulations are important to addressing these concerns. The Department agrees that the adopted regulations are critical in reducing the adverse air pollution impacts in DACs throughout New York State. It is essential that New York State continues to adopt stringent mobile sources emissions standards and regulations to protect human health and the environment, especially in DACs that have historically borne the brunt of these impacts.

Commenters stated that adoption of the HD Omnibus regulation is necessary as the federal CTP regulation is insufficient and falls short. The Department found that the HD Omnibus regulation can provide greater NOx emission reductions from medium- and heavy-duty engines than the final federal CTP. While the Department and other stakeholder have expressed some concerns with several aspects of the CTP, the Department does recognize EPA's efforts to lower NOx emissions compared to current federal standards.

Commenters stated that while this rulemaking is a necessary and important step, additional emissions reductions are needed in NY. While portions of these comments are beyond the scope of this rulemaking, the Department will continue to assess additional regulations, control measures, programs, and potential funding sources to meet the ozone National Ambient Air Quality Standards (NAAQS), maintain compliance with the particulate matter NAAQS, and mitigate the disproportionate impacts of medium- and heavy-duty vehicle traffic on DACs.

Commenters noted the Department's regulatory definition of the HD Omnibus transit agency exemption and made suggestions of alternative regulatory definitions. The Department believes its regulatory definition is adequate.

Some Commenters mentioned other issues, such as battery electric vehicles, their usage, and their adoption. These comments are outside the scope of this rulemaking.

New York State Gaming Commission

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Claiming Rules Revisions in Thoroughbred Racing

I.D. No. SGC-34-23-00009-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: This is a consensus rule making to amend sections 4038.1, 4038.3 and 4038.4 of Title 9 NYCRR.

Statutory authority: Racing, Pari-Mutuel Wagering and Breeding Law, sections 103(2), 104(1) and (19)

Subject: Claiming rules revisions in Thoroughbred racing.

Purpose: To improve the claiming process in Thoroughbred racing.

Text of proposed rule: Sections 4038.1, 4038.3 and 4038.4 of 9 NYCRR would be amended to read as follows:

§ 4038.1. Who may make claim.

(a) Licensed and participating owners. Claims may be made by an owner licensed for the current year, or duly authorized agent, if the owner is presently registered in good faith for racing at that meeting and [has nominated a starter in the previous or current race meet of the licensed or franchised racing association, up to or including the race in which the claim is made] *the owner has started a horse:*

(1) within the previous 120 days, including the race in which such horse started, *in a race meeting of the licensed or franchised association;* or

(2) in the current or previous race meeting of the licensed or franchised racing association.

Such claim shall be in the name of the owner making the claim, or in the name of the entity of which the potential claimant is the managing owner.

(b) Holder of a certificate of eligibility to claim. A person who has not previously been licensed in any state as an owner, upon application for an owners' license in this State, may apply to the stewards for a certificate authorizing him or her to claim one horse during the next 30 racing days following the issuance of the certificate. The stewards may grant an extension [if deemed appropriate] *of 30 racing days if the certificate holder had entered a claim but had lost the disposition by lot pursuant to section 4038.5(b) of this Part.* The certificate shall be valid for claiming only at

the track of the racing association at which it was issued. Such certificate shall be issued by the stewards only after the stewards have been advised by the commission that after an initial background check, and from the face of the application, the applicant appears to be qualified to be licensed and only after the applicant has designated a licensed trainer who will assume care and responsibility for the horse to be claimed.

* * *

§ 4038.3. Conditions for starting claimed horse.

If a horse is claimed the horse shall not start in a claiming race for a period of [30] 20 days from *the date of the claim* for less than 25 percent more than the amount for which such horse was claimed. For a period of 10 days thereafter, a horse is eligible to start for a claiming price equal to or greater than the price at which the horse had been claimed. On the 31st day, the horse may start in a claiming race for any price.

§ 4038.4. Sale, transfer restricted.

If a horse is claimed the horse shall not be sold or transferred to anyone wholly or in part, except in a claiming race, for a period of 30 days from the date of the claim. A claimed horse shall not, unless reclaimed, remain in the same stable or under the control or management of its former owner or trainer for a like period. A claimed horse shall not race outside New York State for a period of [30] 60 days from the date of the claim or the end of the meeting at which such horse was claimed, whichever period of time is longer, except that a horse may run:

(a) in a sweepstakes elsewhere for which the horse was nominated by its former owner or trainer[.];

(b) *after a period of 30 days from the end of a Finger Lakes racing season, if the horse had been claimed at Finger Lakes racetrack; or*

(c) if permission is granted by the stewards.

Text of proposed rule and any required statements and analyses may be obtained from: Kristen M. Buckley, New York State Gaming Commission, One Broadway Center, P.O. Box 7500, Schenectady, New York 12301-7500, (518) 388-3332, email: gamingrules@gaming.ny.gov

Data, views or arguments may be submitted to: Same as above.

Public comment will be received until: 60 days after publication of this notice.

Consensus Rule Making Determination

This proposed rulemaking will amend the New York State Gaming Commission's Thoroughbred claiming regulations. The proposed amendments will address concerns communicated to Commission staff by some horse owners and their representatives. Because the Commission has already consulted with industry stakeholders on this proposal, the Commission does not anticipate public comment and no person is likely to object to the proposed revisions.

Job Impact Statement

A job impact statement is not required for this consensus rulemaking proposal because the proposed amendments will not adversely affect jobs or employment opportunities.

This proposed rulemaking will amend the New York State Gaming Commission's Thoroughbred claiming regulations. The proposed amendments will address concerns communicated to Commission staff by some horse owners and their representatives.

The proposed amendments will not have an impact on jobs or employment opportunities and will not impose any adverse impact on jobs or employment opportunities.

PROPOSED RULE MAKING NO HEARING(S) SCHEDULED

Lottery Prize Assignment Processing Fee

I.D. No. SGC-34-23-00012-P

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following proposed rule:

Proposed Action: Amendment of section 5002.11 of Title 9 NYCRR.

Statutory authority: Tax Law, sections 1601, 1604, 1613(d)(7); Racing, Pari-Mutuel Wagering and Breeding Law, sections 103(2), 104(1) and (19)

Subject: Lottery prize assignment processing fee.

Purpose: To defray administrative expenses associated with a prizewinner's assignment.

Text of proposed rule: Section 5002.11 of Subtitle T of Title 9 of the NYCRR would be amended, as follows:

§ 5002.11. Prize rights [un-assignable] *non-assignable.*

* * *

(a) No right of any person to a prize shall be assignable, except that:
 (1) any prize may be paid to the estate of a deceased prize winner[, and except that any person, pursuant to an appropriate judicial order, may be paid the prize to which the winner is entitled. For the purposes of this section, payment of a];
 (2) any prize, or portion thereof, *may be paid* to the Department of Social Services either: (a) pursuant to [an agreement under] Tax Law section 1613-a [where the Department of Social Services has informed the commission that the winner has failed to obey a court order requiring the winner to support the winner’s dependents; or (b) pursuant to an agreement under] or Tax Law section 1613-b [where the Department of Social Services has identified the winner as a recipient of public assistance benefits who is liable to reimburse the State for such benefits, shall be deemed to be payment pursuant to an appropriate judicial order];
 (3) any prize, or portion thereof, *may be credited against past-due tax liabilities pursuant to Tax Law 1613-c; and*
 (4) any person, pursuant to an appropriate judicial order, including, without limitation, an order issued pursuant to Tax Law 1613(d), *may be paid a prize, or portion thereof, to which the winner is entitled.*

(b) The commission shall be discharged of all liability upon payment of a prize pursuant to this section.
 (c) *Any potential assignee seeking a court-ordered assignment pursuant to Tax Law section 1613(d) shall pay to the commission a processing fee of \$435 per assignment in connection with consideration of such assignment, as authorized by Tax Law section 1613(d)(7). If the Commission incurs costs exceeding such fee for a particular assignment, the Commission may assess and collect from the potential or actual assignee an additional fee of \$86.50 for each hour expended in relation to the consideration or administration of such proposed or ordered assignment, less the original processing fee.*

Text of proposed rule and any required statements and analyses may be obtained from: Kristen Buckley, Gaming Commission, 1 Broadway Center, PO Box 7500, Schenectady, NY 12301, (518) 388-3332, email: gamingrules@gaming.ny.gov
Data, views or arguments may be submitted to: Same as above.
Public comment will be received until: 60 days after publication of this notice.

Regulatory Impact Statement

1. STATUTORY AUTHORITY: The New York State Gaming Commission (“Commission”) is authorized to promulgate this rule by Tax Law Sections 1601, 1604, and 1613(d)(7), and Racing, Pari-Mutuel Wagering and Breeding Law (“Racing Law”) Sections 103(2) and 104(1) and (19).
 Tax Law Section 1601 describes the purpose of the New York State Lottery by Education Law (Tax Law Article 34) as being to establish a lottery operated by the State, the net proceeds of which are applied exclusively to aid to education. Tax Law Section 1604 authorizes the promulgation of rules governing the establishment and operation of such lottery. Tax Law Section 1613(d)(7) authorizes the Commission to establish a reasonable fee to defray any administrative expenses associated with a lottery prizewinner’s assignment of an annuity prize won and directs that the “fee amount shall reflect the direct and indirect costs associated with processing assignments.”
 Racing Law Section 103(2) provides that the Commission is responsible to operate and administer the state lottery for education, as prescribed by Article 34 of the Tax Law. Racing Law Section 104(1) provides the Commission with general jurisdiction over all gaming activities within the State and over any person, corporation or association engaged in such activities. Racing Law Section 104(19) authorizes the Commission to promulgate any rules it deems necessary to carry out its responsibilities.

2. LEGISLATIVE OBJECTIVES: To defray administrative expenses incurred by the Commission, associated with a prizewinner’s assignment.
 3. NEEDS AND BENEFITS: The proposed rulemaking will establish a reasonable fee to defray any administrative expenses associated with a lottery prizewinner’s assignment, taking into account the direct and indirect costs associated with the Commission processing such assignments. The fee would be charged to the potential prize payment assignee, which is typically a commercial business that provides a lump-sum payment to a prizewinner who had initially chosen to receive the lottery prize in installments, in exchange for the prizewinner’s assignment to such prize payment assignee of the right to collect the future installments of the prize payment. Tax Law section 1613 requires any such voluntary assignment to be reviewed and, to be effective, approved by the Supreme Court of the county where the assigning prize winner resides or where the headquarters of the Commission is located. In connection with Supreme Court review of a proposed assignment, the Commission receives the proposed assignment, reviews it for conformity with law, researches whether the future payments are available for assignment and not subject to competing liens

or claims, and prepares and submits an affidavit to assist the court with its review of the assignment petition. This Commission review takes staff time and effort, resulting in direct and indirect costs to the Commission that should be borne by the potential prize payment assignee that petitions for, and seeks to benefit from, the prize assignment.

4. COSTS:
 a. Costs to regulated parties for the implementation and continuing compliance with the rule: Potential prize payment assignees would, through the implementation of this fee, bear the reasonable cost of Commission review of the proposed assignments that would benefit them, as authorized by Tax Law section 1613(d)(7).
 b. Costs to the regulated agency, the State, and local governments for the implementation and continuation of the rule: No additional operating costs are anticipated.
 c. The information, including the source or sources of such information, and methodology upon which the cost analysis is based: The cost estimates are based on the Commission’s experience reviewing prize payment assignments.
 5. LOCAL GOVERNMENT MANDATES: The proposed rulemaking does not impose any new programs, services, duties or responsibilities upon any country, city, town, village school district, fire district or other special district.
 6. PAPERWORK: The rules are not expected to impose any significant paperwork or reporting requirements on the regulated entities.
 7. DUPLICATION: There are no relevant State programs or regulations that duplicate, overlap or conflict with the proposed rulemaking.
 8. ALTERNATIVES: The alternative of not proposing this rulemaking was considered and rejected. The Commission determined that it would be reasonable to have the party petitioning for, and seeking to benefit from, a prize-payment assignment bear the reasonable costs the Commission incurs in reviewing the assignment and advising the Supreme Court as the court implements the review required by Tax Law section 1613 to protect prizewinners. This proposed rulemaking would set forth the processing fee authorized by Tax Law section 1613(d)(7).
 9. FEDERAL STANDARDS: The proposed rule does not exceed any minimum standards imposed by the federal government.
 10. COMPLIANCE SCHEDULE: The Commission believes that affected parties will be able to achieve compliance with these rules upon adoption.

Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement

The proposed rulemaking will not have any adverse impact on small businesses, local governments, jobs or rural areas. The proposed rulemaking would set forth the processing fee for lottery prize payment assignments. This fee is authorized by Tax Law section 1613(d)(7).
 The proposed rulemaking does not impact local governments and will not have an adverse impact on small businesses.
 The proposed rulemaking imposes no adverse impact on rural areas. The rule applies uniformly throughout the State.
 The proposed rulemaking will have no adverse impact on job opportunities.
 The proposed rulemaking will not adversely impact small businesses, local governments, jobs or rural areas. Accordingly, a full Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement are not required and have not been prepared.

Public Service Commission

NOTICE OF WITHDRAWAL

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following actions:

The following rule makings have been withdrawn from consideration:

I.D. No.	Publication Date of Proposal
PSC-03-08-00006-P	January 16, 2008
PSC-35-14-00005-P	September 3, 2014
PSC-44-18-00016-P	October 31, 2018
PSC-08-20-00003-P	February 26, 2020
PSC-18-21-00008-P	April 20, 2021
PSC-28-21-00012-P	July 14, 2021
PSC-37-22-00005-P	September 14, 2022
PSC-39-22-00008-P	September 28, 2022



Gaming Commission

One Broadway Center, P.O. Box 7500, Schenectady, NY 12301-7500
www.gaming.ny.gov

To: Commissioners
From: Edmund C. Burns
Date: October 19, 2023
Re: Adoption of Proposed Rulemaking for Lottery Courier Service Purchase Location (9 NYCRR § 5014.7)

For Commission consideration is the adoption of an amendment to regulations governing the purchase of lottery courier services. The amendment would clarify the requirements for customer presence in New York State. A licensed lottery courier service is permitted to accept orders to purchase New York lottery tickets on behalf of a courier customer. The courier service then fulfills the courier customer’s request by purchasing the ticket at a licensed lottery sales agent retail location on behalf of the courier customer. 9 NYCRR Part 5014.

The Commission published a Notice of Proposed Rulemaking in the December 14, 2022 State Register and received public comment. Upon consideration of the public comments, the Commission published a Notice of Revised Rulemaking in the August 30, 2023 State Register, a copy of which is attached.

One public comment was received in response to the Notice of Revised Rulemaking, from TuLoter, which describes itself on its website as a “lottery app that lets you play the lottery whenever and wherever you want. It connects users to wherever an associated lottery operates.” TuLoter is not licensed with the Commission as a lottery courier service. The commenter opined that the proposed rule “can be confusing for services who hold funds in trust for the users.” The commenter stated its belief that the intended interpretation of the proposed rule is that a courier “purchase is when a user’s funds held in trust are transferred to the ownership of the courier service.” The commenter stated that the use of the word “and” between paragraphs (1) and (2) of the proposed rule “implies that the transfer of funds to the courier service (which may be held in trust) must be simultaneous.” The commenter stated that customers may wish to deposit funds with a courier in one state, then cross a state border to request courier services in another state. The commenter suggested alternative rule text.

Staff response

[Redacted content]

[REDACTED]

[REDACTED].

cc: Robert Williams, Executive Director
Gweneth Dean, Director, Division of Lottery

7. LOCAL GOVERNMENT PARTICIPATION:

Copies of the proposed amendment have been provided to school districts through the offices of the district superintendents of each supervisory district in the State and to the chief school officers of the five big city school districts for review and comment.

Rural Area Flexibility Analysis

The purpose of the proposed rule is to implement Part OO of Chapter 58 of the laws of 2023, which amended General Municipal Law § 103 to facilitate the purchase of New York State food products and milk produced in New York State by school districts or board of cooperative educational services. The proposed amendments to sections 114.3 and 114.4 were developed in consultation with the Commissioner of Agriculture and Markets (as required by General Municipal Law § 103(9) (9-a)) to accommodate and promote the provisions of the farm-to-school program established pursuant to Education Law § 305 and Agriculture and Markets Law § 16(5-b). The amendments to the General Municipal Law provide districts and BOCES with greater flexibility for exemptions to bidding requirements for food products and milk produced in New York State.

Since proposed amendment merely implements statutory changes that are applicable to all school districts and BOCES, including those located in rural areas, and such amendments provide greater flexibility for exemptions to bidding requirements for food products and milk produced in New York State, the Department does not anticipate that the proposed rule will adversely impact regulated entities in rural areas of New York State. Accordingly, no further steps were needed to ascertain the impact of the proposed amendment on entities in rural areas and none were taken. Thus, a rural flexibility analysis is not required and one has not been prepared.

These amendments will not require any new reporting, record keeping or compliance requirements on school districts located in rural areas, beyond those imposed by statute. It will also not impose any adverse economic impact on school districts located in rural areas. Therefore, a rural area flexibility analysis is not necessary, and one has not been prepared.

Job Impact Statement

The purpose of the proposed rule is to implement Part OO of Chapter 58 of the laws of 2023, which amended General Municipal Law § 103 to facilitate the purchase of New York State food products and milk produced in New York State by school districts or board of cooperative educational services. The proposed amendments to sections 114.3 and 114.4 were developed in consultation with the Commissioner of Agriculture and Markets (as required by General Municipal Law § 103(9) (9-a)) to accommodate and promote the provisions of the farm-to-school program established pursuant to Education Law § 305 and Agriculture and Markets Law § 16(5-b). The amendments to the General Municipal Law provide districts and BOCES with greater flexibility for exemptions to bidding requirements for food products and milk produced in New York State.

Because it is evident from the nature of the proposed rule that it will not affect job and employment opportunities, no affirmative steps were needed to ascertain that fact and none were taken. Accordingly, a job impact statement is not required and one has not been prepared.

Initial Review of Rule

As a rule that requires a RFA, RAFA or JIS, this rule will be initially reviewed in the calendar year 2026, which is no later than the 3rd year after the year in which this rule is being adopted.

Assessment of Public Comment

The agency received no public comment.

New York State Gaming Commission

REVISED RULE MAKING NO HEARING(S) SCHEDULED

Purchase Location Requirements for Lottery Courier Services

I.D. No. SGC-50-22-00009-RP

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following revised rule:

Proposed Action: Amendment of section 5014.7 of Title 9 NYCRR.

Statutory authority: Tax Law, sections 1601, 1604, 1605, 1607, 1609; Racing, Pari-Mutuel Wagering and Breeding Law, sections 103(2), 104(1) and (19)

Subject: Purchase location requirements for lottery courier services.

Purpose: To facilitate the proper sale of lottery tickets to generate revenue for education.

Text of revised rule: Subdivision (a) of section 5014.7 of 9 NYCRR would be amended to read as follows:

§ 5014.7. Requirements for network.

(a) Location of courier customers within the State. A network shall employ a method of restricting requests for courier services to only those made by courier customers physically located in the State of New York at the time of purchase of courier services. *The purchase of courier services, within the meaning of this subdivision, shall occur when the courier customer:*

(1) requests the courier service purchase and deliver a particular lottery ticket or tickets on behalf of the courier customer; and

(2) initiates the transfer of funds to such courier service to cover the cost in full of the lottery ticket or tickets requested to be purchased. *For avoidance of doubt, the element described in this paragraph is satisfied if the courier service, at the time the courier customer initiates the transfer of funds, verifies the courier customer's physical location in New York and:*

(i) the courier customer pays for the full amount of the ticket order;

(ii) the courier service commits or segregates funds in the customer's courier service account for the purpose of covering the full cost of the ticket order; or

(iii) the courier service debits the customer's method of payment (e.g., credit card, debit card, customer's courier service account) to cover the cost of the ticket order.

Both of the elements described in paragraphs (1) and (2) of this subdivision must occur while the courier customer is physically located in the State of New York.

Revised rule compared with proposed rule: Substantial revisions were made in section 5014.7.

Text of revised proposed rule and any required statements and analyses may be obtained from Kristen M. Buckley, Gaming Commission, One Broadway Center, P.O. Box 7500, Schenectady, New York 12301, (518) 388-3332, email: gamingrules@gaming.ny.gov

Data, views or arguments may be submitted to: Same as above.

Public comment will be received until: 45 days after publication of this notice.

Revised Regulatory Impact Statement

A revised regulatory impact statement (RIS) is not required for this revised rulemaking because changes made to the last published rule do not necessitate revision to the previously published RIS.

Revised Regulatory Flexibility Analysis, Revised Rural Area Flexibility Analysis and Job Impact Statement

A regulatory flexibility analysis for small business and local governments, a rural area flexibility analysis, and a job impact statement are not required for this revised rulemaking because it will not adversely affect small businesses, local governments, rural areas, or jobs.

State Board of Elections

NOTICE OF ADOPTION

Procedures for Failure to File Enforcement Proceedings

I.D. No. SBE-13-23-00004-A

Filing No. 707

Filing Date: 2023-08-15

Effective Date: 2023-08-30

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Addition of section 6218.13 to Title 9 NYCRR.

Statutory authority: Election Law, sections 3-102(1), (17) and 3-104(8)

Subject: Procedures for failure to file enforcement proceedings.

Purpose: Establishes expedited procedure for exclusively failure to file proceedings.

Text or summary was published in the March 29, 2023 issue of the Register, I.D. No. SBE-13-23-00004-P.

Final rule as compared with last published rule: No changes.

Text of rule and any required statements and analyses may be obtained from: Brian L. Quail, Esq., New York State Board of Elections, 40 North Pearl Street, Floor 5, Albany, New York 12207-2729, (518) 474-2063, email: brian.quail@elections.ny.gov

The revised rulemaking would amend regulations governing the purchase of lottery courier services. The amendment would clarify the requirements for customer presence in New York State.

The revised rulemaking does not impact local governments and will not have an adverse impact on small businesses.

The revised rulemaking imposes no adverse impact on rural areas. The rule applies uniformly throughout the state.

The revised rulemaking will have no adverse impact on job opportunities.

The revised rulemaking will not adversely impact small businesses, local governments, jobs or rural areas. Accordingly, a full Regulatory Flexibility Analysis, Rural Area Flexibility Analysis and Job Impact Statement are not required and have not been prepared.

Assessment of Public Comment

Jackpocket, a licensed lottery courier service in New York, stated that it was “requesting clarity on the proposed rule.” Jackpocket’s model requires its customers to fund a digital “wallet” maintained by Jackpocket. Jackpocket stated, “Funding the Jackpocket wallet is not an act of purchasing a lottery ticket. It is a completely separate transaction, akin to taking out cash from an ATM machine to purchase a ticket.” A customer uses funds from such digital wallet to purchase Jackpocket’s courier services. Jackpocket explained, by way of example, that “funds can be deposited while someone is in New Jersey. In the event such person subsequently travels to New York State, that person can then use the funds deposited in New Jersey to purchase a New York lottery ticket or game while physically present in New York.” Jackpocket geolocates the customer in New York at the time the customer makes the request for courier services. Jackpocket stated that it “is concerned that this proposed rule will have the unintended consequence of prohibiting customers from funding their wallets outside of New York State, which is permissible under federal law and existing regulations.” Jackpocket argued that “lottery courier services should be treated like all other operators regulated by the Commission such as online sports wagering operators, daily fantasy sports operators and advance deposit wagering systems,” which Jackpocket believes are permitted to use funds in a digital wallet that were deposited outside of New York State. Jackpocket stated a concern that “the result of this proposed rule would be that lottery courier services must require a separate digital wallet just for New York State,” which Jackpocket asserted would be inconvenient for lottery players and would “result in a material loss of revenue.”

The Commission agrees that a lottery courier customer must be located in New York State in order to comply with the Federal-law prohibitions on interstate lottery activity. The Commission believes that those interstate-lottery-activity prohibitions are also implicated if a lottery courier service customer directs the funds to be removed from the customer’s digital wallet for a designated lottery ticket purchase while the customer is in a different state than the one in which the lottery ticket purchase is effected. The proposed regulation would require a customer’s presence in New York both (1) at the time the customer requests the delivery of a New York lottery ticket through the courier service network and (2) at the time the customer directs the courier to apply existing customer funds to such New York ticket-delivery order.

The Commission agrees that a customer may fund a Jackpocket digital wallet in New Jersey, then travel to New York and, while in New York, direct the courier service to remove funds from the digital wallet to purchase a New York lottery ticket on the customer’s behalf, and that this example would remain compliant under the proposed rule. In order to ensure compliance with the Federal interstate-lottery-activity prohibitions, however, the proposed regulation would prevent a lottery courier service from allowing a customer to order a lottery ticket in New York without having funded it, leave the State, and then, while elsewhere, fund such New York ticket purchase.

For Jackpocket, the conflict related to interstate lottery activity arises with the interplay of its “autoplay” and “autofund” features. Jackpocket wishes to continue to allow a customer, while in New York, to select those features after linking the customer’s Jackpocket digital wallet to a bank account or to a credit or debit card. Thus, Jackpocket wishes to allow, for example, a customer to order, while in New York, the delivery of a ticket for an unlimited number of lottery draws, even if the customer lacks the current funds in the customer’s digital wallet to fund such purchases. Then, once the customer’s digital wallet is depleted in the future, Jackpocket wishes to allow the customer to fund future purchases at the future date at which the digital wallet is depleted, at which time the customer may be outside the State. Allowing such automatic replenishment of funds to purchase lottery tickets when requesting delivery, staff believes, unduly risks violating the Federal prohibitions on interstate lottery activity.

The Commission interprets the proposed regulation to require the customer to be in New York State at the time the ticket-delivery request is made (which Jackpocket does not dispute) and be in New York State at the time the customer “funds” the ticket-delivery request by directing the lot-

tery courier service to segregate existing money from the customer’s digital wallet toward such ticket-delivery request. In this manner, the Commission can be assured that the entire lottery-related transaction occurs only within New York, as Federal law requires.

In the Commission’s lottery subscription program, by contrast, a player must fully fund the series of future ticket purchases at the time of the purchase request, and be in New York State at the time of such funding.

The Commission disagrees that the proposed rule would require a lottery courier service to establish a separate New York digital wallet. The proposed rule would, instead, require the customer’s presence in New York at the time existing money is dedicated from the customer’s digital wallet toward a New York purchase.

The Commission also notes that Jackpocket is misplaced in comparing its activity with mobile sports wagering and horse racing advance-deposit wagering. Title 18, section 1953 of Federal law explicitly carves out sports wagering, including horse racing, from its generally broad prohibition on interstate wagering activity. Similarly, the Federal Unlawful Internet Gambling Enforcement Act of 2006 explicitly carves out horse-racing wagering from its prohibitions. 31 U.S.C. § 5362(10)(D).

Lotto.com, a licensed lottery courier service in New York, urged the Commission to not adopt the proposed rule, stating that the proposed rulemaking “fails to recognize that the actual courier transaction, and funding for that transaction, always occurs within New York”; “creates inconsistencies with the lottery’s own administrative rules and prior practice, as well as those addressing funding of plays for other authorized gaming in New York”; “does not reflect industry practice within the lottery industry”; and “would convert New York to a cash only lottery state.” Lotto.com stated that lottery couriers do not sell lottery tickets and that “federal law concerns cited as justification for this rule simply don’t apply.” Lotto.com notes that the purchase of the actual New York Lottery ticket “always occurs within the state...as a purely intrastate transaction between licensed retailer and licensed courier.” Lotto.com asserts “[t]here is no federal law that requires the transfer of funds which may be used for a lottery ticket purchase or a lottery courier services transaction to occur within the confines of a state.”

Lotto.com asserted that New York has “permitted” the only other licensed lottery courier (meaning Jackpocket) to offer its “Autoplay” and “Auto Fund” functionality without requiring geolocation. Lotto.com stated that the Commission has “denied lotto.com the ability to perform similar actions within the state.” Lotto.com asserted that the Commission’s lottery subscription program has allowed customers to fund subscriptions without having to be physically present in the State. Lotto.com also noted that horse racing and mobile sports wagering customers may fund wagers without ensuring that they are within the State when gaming orders are funded. Lotto.com asserted that several other lottery jurisdictions operate without geolocation requirements or allow for funding via mail.

Lotto.com argued that the proposed rule is “unworkable” and “would create widespread unintended consequences on traditional lottery practices.” Lotto.com asserted that “the lottery can only be assured of the purchaser’s physical presence in New York for funding purposes with an all cash transaction.” Lotto.com stated that “funding for electronic transactions, such as debit and credit card purchases, always trail the actual purchase” because of the settlement of the transaction, while a check may not clear for days after having been delivered.

The Commission agrees that lottery couriers do not sell lottery tickets and that the purchase of the actual New York Lottery ticket always occurs within the State, but disagrees that the courier transaction function does not implicate the Federal interstate-lottery-activity prohibitions. See, e.g., *Pic-A-State Pa, Inc. v. Reno*, 76 F.3d 1294, 1296-97 (3d Cir. 1996) (18 USC § 1301 prohibits “transmission in interstate commerce of information to be used for the purpose of procuring a lottery ticket”); *United States v. Stuebben*, 799 F.2d 225 (5th Cir. 1986) (18 USC § 1953(a) applies to prohibit interstate lottery couriers, even where courier’s purchase of actual lottery tickets occurred in-state).

Lotto.com is mistaken that New York has “permitted” Jackpocket to offer its autoplay and auto-fund functionality without requiring geolocation. To the contrary, it is the interplay of such functionality that raises the federal-law concerns that give rise to this proposed rule making. The Commission, through the adoption of this proposed rule making, will prevent Jackpocket from allowing the funding of lottery-purchase-related services while the lottery courier customer is outside of New York.

Lotto.com is mistaken in stating that the Commission has “denied lotto.com the ability to perform similar actions within the state.” To the contrary, Commission staff informed lotto.com that it, too, may utilize the same digital wallet model that Jackpocket employs, and lotto.com has determined to do so. What lotto.com had sought is permission to allow its customers to purchase a subscription for lottery courier services through a payment method that might be charged while the customer is outside of New York. Such proposal is dissimilar to the digital-wallet model and, the Commission believes, is impermissible under Federal law.

The Commission confirms that the New York Lottery currently does not allow customers in its subscription program to fund purchases while the customer is outside of New York.

Like Jackpocket, lotto.com is misplaced in comparing its activity with mobile sports wagering and horse racing, as such activity is carved out of the relevant federal statutes.

The Commission confirmed with several other jurisdictions that they employ geolocation functionality in connection with their lotteries, contrary to assertions made by lotto.com. Nevertheless, even if lotto.com's assertions about another state's practices were accurate, the Commission cannot credit another jurisdiction's potential noncompliance as evidence of a law's proper interpretation.

The Commission disagrees that the proposed rule would require all-cash lottery transactions. The proposed rule provides that the location requirement applies "when the customer initiates the transfer of funds to the courier service in connection with" a delivery request, not when the transfer of funds ultimately settles.

Jackpot.com proposed that a customer physically located in New York should be able, through Jackpot.com's platform, to purchase a subscription for a series of courier service deliveries, have the customer's location verified, opt to "Auto Renew," have the customer's location verified at the time of renewal, and have the renewal canceled if the customer is not in New York at the time of the renewal.

Staff believes the process Jackpot.com described would comply with the proposed rule, if adopted.

Brianne Doura complimented the Commission for having "done a tremendous job in accounting for and incorporating advances in technology to better protect customers, via items such as self-exclusion, relevant and modern advertising guidelines, comprehensive [know-your-customer], and Geolocation requirements, just to name a few." Doura stated that a "traveling universal wallet would allow couriers to better monitor, flag, or even intervene any problematic play of users." Doura stated that a "central wallet would allow for holistic limit thresholds to be set and enforced. It is far more difficult for vendors and problem gambling experts alike to monitor problematic play when customer funds are distributed across multiple accounts."

The Commission believes the proposed rule would not eliminate the possibility for a lottery courier service to employ a customer wallet model that a customer could use when traveling from state to state to order delivery of lottery tickets within the state in which the customer is located. Rather, the proposed rule would prevent such a customer from funding a purchase in one state while the customer is located in another state.

Department of Health

NOTICE OF ADOPTION

Inclusion of a Health Equity Impact Assessment As Part of the Certificate of Need (CON) Process

I.D. No. HLT-15-23-00008-A

Filing No. 709

Filing Date: 2023-08-16

Effective Date: 2023-08-30

PURSUANT TO THE PROVISIONS OF THE State Administrative Procedure Act, NOTICE is hereby given of the following action:

Action taken: Addition of section 400.26; amendment of sections 600.1 and 710.2 of Title 10 NYCRR.

Statutory authority: Public Health Law, section 2803

Subject: Inclusion of a Health Equity Impact Assessment as Part of the Certificate of Need (CON) Process.

Purpose: To ensure community members and stakeholders are meaningfully engaged and considered in proposed facility projects.

Text of final rule: A new section 400.26 is added, to read as follows:

Section 400.26. Health Equity Impact Assessments.

(a) *In accordance with Public Health Law § 2802-b, applications under Article 28, meeting the criteria set forth in this section, shall include a health equity impact assessment. The purpose of the health equity impact assessment is to demonstrate how a proposed project affects the accessibility and delivery of health care services to enhance health equity and contribute to mitigating health disparities in the facility's service area, specifically for medically underserved groups.*

(b) *Definitions. For the purposes of this section the following terms shall have the following meaning:*

(1) *"Independent entity" means individual or organization with demonstrated expertise and experience in the study of health equity, anti-racism, and community and stakeholder engagement, and with preferred expertise and experience in the study of health care access or delivery of health care services, able to produce an objective written assessment using a standard format of whether, and, if so, how, the facility's proposed project will impact access to and delivery of health care services, particularly for members of medically underserved groups.*

(2) *"Conflict of Interest" means having a financial interest in the approval of an application or assisting in drafting any part of the application on behalf of the facility, other than the health equity assessment.*

(3) *"Stakeholders" shall include individuals or organizations currently or anticipated to be served by the facility, employees of the facility including facility boards or committees, public health experts including local health departments, residents of the facility's service area and organizations representing those residents, patients or residents of the facility, community-based organizations, and community leaders.*

(4) *"Meaningful engagement" shall mean providing advance notice to stakeholders and an opportunity for stakeholders to provide feedback concerning the facility's proposed project, including phone calls, community forums, surveys, and written statements. Meaningful engagement must be reasonable and culturally competent based on the type of stakeholder being engaged (for example, people with disabilities should be offered a range of audiovisual modalities to complete an electronic online survey).*

(c) *In accordance with Public Health Law 2802-b, applications for the construction, establishment, change in establishment, merger, acquisition, elimination or substantial reduction, expansion or addition of a hospital service or health-related service of a hospital that require review or approval by the public health and health planning council or the commissioner, shall include a health equity impact assessment; provided, however, that a health equity impact assessment shall not be required for the following:*

(1) *projects that do not require prior approval but instead only require a written notice to be submitted to the Department prior to commencement of a project pursuant to Part 710 of this Title;*

(2) *minor construction and equipment projects subject only to limited review pursuant to Part 710 of this Title, unless such project would result in the elimination, reduction, expansion or addition of beds or services;*

(3) *establishment (new or change in ownership) of an operator, including mergers and acquisitions, unless such establishment would result: (i) the elimination of a hospital service or health-related service; (ii) a 10 percent or greater reduction in the number of certified beds, certified services, or operating hours or (iii) a change of location of a hospital service or health-related service; and*

(4) *applications made by a diagnostic and treatment center whose patient population is over fifty percent combined patients or residents enrolled in Medicaid or uninsured, unless the application includes a change in controlling person, principal stockholder, or principal member of the facility.*

(d) *A health equity impact assessment shall be performed by an independent entity without a conflict of interest, using a standard format provided by the Department, and shall include:*

(1) *meaningful engagement of stakeholders commensurate to the size, scope and complexity of the facility's proposed project and conducted throughout the process of developing the health equity impact assessment, to incorporate and reflect community voices;*

(2) *a description of the mechanisms used to conduct meaningful engagement;*

(3) *a documented summary of statements received from stakeholders through meaningful engagement as submitted to, or prepared by, the facility or independent entity. The Department reserves the right to request and review individual statements as submitted, or prepared by the facility or independent entity, while reviewing the health equity impact assessment.*

(4) *documentation of the contractual agreement between the independent entity and the facility;*

(5) *a signed attestation from the independent entity that there is no conflict of interest; and*

(6) *a description of the independent entity's qualifications.*

(e) *When submitting an application to the Department requiring a health equity impact assessment, the application must include:*

(1) *a full version of the application and a version with proposed redactions, if any, to be shared publicly; and*

(2) *a signed written acknowledgment that the health equity impact assessment was reviewed by the facility, including a narrative explaining how the facility has or will mitigate potential negative impacts to medically underserved groups identified in the health equity impact assessment. The narrative must also be made available to the public and posted conspicuously on the facility's website until a decision on the application is rendered by the public health and health planning council or the commissioner.*



Gaming Commission

One Broadway Center, P.O. Box 7500, Schenectady, NY 12301-7500
www.gaming.ny.gov

To: Commissioners

From: Edmund C. Burns

Date: November 28, 2023

Re: Proposed Rulemaking for Lottery Prize Payment and Subscription Amendments (9 NYCRR §§ 5000.2, 5002.1, 5002.3, 5002.4, 5002.5, 5002.7, 5002.10, 5002.11, 5002.13, 5004.5, 5005.1, 5005.2, 5005.3, 5005.4, 5005.5, 5005.6, 5005.7, 5005.8, 5005.9, 5005.10, 5007.2, 5007.5, 5007.15, 5007.16, 5008.2, 5008.11, 5013.3, 5014.3 and 5014.14)

For Commission consideration are amendments to the lottery prize payment and subscription rules. The Division of Lottery is investing in a new system that will modernize the way the Division processes prize and subscription claims. In the context of evaluating the new system, which includes flexible and enhanced features, staff identified regulations that require modification.

The Division of Lottery proposes to change the manner in which “for life” prizes are paid to group claims, claims by entities and claims on behalf of minors under the age of 18. The proposal would make such prizes consistent with how they are paid in the Cash 4 Life game (20 payments over 20 years). This change would create uniformity across the “for life” games. The Division of Lottery proposes to change the guaranteed amount for individual claimants from a fixed dollar amount over 20 years to 20 equal payments over 20 years. This change would create uniformity in payment processing. Staff anticipates that this change will minimally increase the annual amount to an individual claimant.

The Division of Lottery proposes to limit the Lottery subscription program to individuals only. Proposed amendments to various regulations would eliminate provisions relating to subscriptions by groups. In addition, rules are proposed to make explicit that a subscription is void if payment for the ticket is rejected for non-sufficient funds and to reserve authority to suspend a subscription in the event of suspicious transactions.

Current regulations authorize lottery sales agents to pay prizes of \$600 or less. Yet there are statutory offsets that require crediting of lottery prizes of \$600 or more against either past-due support (Tax Law section 1613-a) or public assistance benefits (Tax Law sections 1613-b). The amendments would ensure that such offsets are applied, by requiring prizes of \$600 to be presented directly to the Commission for payment, rather than allowing them to be paid at a licensed lottery sales agent location. Corresponding amendments to thresholds pertaining to lottery courier services are proposed.

Other amendments would codify existing practice of allowing a claimant to direct payment to a bank account, allow delivery of a prize by means other than the United States Postal Service, add a reference to the statutory offset for past-due State tax liabilities, and make technical stylistic edits to sections relating to prize payments and subscriptions, such as adding titles to subdivisions, improving word choices and using Department of State style conventions

Because the new system is anticipated to be implemented next year, these amendments are requested to become effective April 1, 2024, to synch with the commencement of the new system.

The text of the proposed amendments is attached.

[REDACTED]

attachment

cc: Robert Williams, Executive Director
Gweneth Dean, Director, Division of Lottery

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Sections 5000.2, 5002.1, 5002.3, 5002.4, 5002.5, 5002.7, 5002.10, 5002.11, 5002.13, 5004.5, 5005.1, 5005.2, 5005.3, 5005.4, 5005.5, 5005.6, 5005.7, 5005.8, 5007.2, 5007.5, 5007.15, 5007.16, 5008.2, 5008.11, 5013.3, 5014.3 and 5014.14 of 9 NYCRR would be amended, and new sections 5005.9 and 5005.10 would be added, to read as follows:

§ 5000.2. Definitions.

Unless the context indicates otherwise, the following definitions are applicable throughout this chapter.

* * *

(d) *Claimant* means any person or entity submitting a prize claim within the required time period of a game to collect a prize relating to a ticket. A claimant may be a person or entity named on a signed ticket or may be the bearer of an unsigned ticket. No claimant may assert rights different from the rights acquired by the original purchaser of the ticket at the time of purchase.

* * *

PART 5002

Payment of Prizes

Section	
5002.1	Information furnished by winning ticket holder
5002.2	Requirement of additional information
5002.3	Time of payment of prize
5002.4	Place of payment
5002.5	Manner of payment
5002.6	Discharge of State liability upon payment
5002.7	[Payments to single claimant only] <u>Claim requirements</u>
5002.8	Payment of prizes to persons under 18 years of age
5002.9	Prizes payable after death of prizewinner
5002.10	Unclaimed and abandoned prize money
5002.11	Prize rights un-assignable
5002.12	Publicity release
5002.13	Prize payable for life

* * *

§ 5002.1. Information furnished by winning ticket holder.

Each claimant shall fill out a prize claim form [as specified in the rules of each game], unless the prize is less than \$600 and is claimed at a licensed lottery sales agent, and surrender such claimant's winning ticket. Nothing in this section shall prohibit the commission from authorizing a courier service licensed pursuant to Part 5014 of this subchapter to provide a claimant with an electronic version of a prize claim form.

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* * *

§ 5002.3. Time of payment of prize.

Payment of [prizes] a prize shall be [awarded as soon as reasonably possible] made only after the prize claim form has been filed, validated and verified, and the claimant has been identified to the satisfaction of the commission.

§ 5002.4. Place of payment.

Payment of [prizes] a prize shall be made to the claimant or claimants at the address or addresses furnished to the commission on the prize claim form or as authorized by the claimant or claimants for deposit in another manner, on such supplemental forms as the commission may require.

§ 5002.5. Manner of payment.

* * *

(b) *Prizes at or above threshold claimed in person.* Any prize paid at an office of the commission, or by an agent designated by the commission to pay prizes of [more than] \$600 or more each on behalf of the commission, shall be paid by check or by any alternative method of payment determined by the commission (such as a commission-issued debit card). Any prize of [more than] \$600 or more must be claimed directly from the commission or an agent designated by the commission for such payment, pursuant to this subdivision or subdivision (a) of this section.

(c) *Prizes [at or] below threshold claimed in person.* Any prize of less than \$600 [or less] may be claimed at any licensed lottery [retailer] sales agent location or at an office of the commission, or by an agent designated by the commission, and the prize shall be paid in cash or by any alternative method of payment determined by the commission (such as a commission-issued debit card). A prize of such amount resulting from a ticket issued on behalf of a courier customer to a courier service may be claimed pursuant to section 5014.14 of this chapter.

(d) *Subscriptions.* Any prize won by a subscriber through a subscription pursuant to Part 5005 of this Chapter shall be payable as follows:

(1) by check or alternative method of payment determined by the commission (such as a commission-issued debit card), if the prize is [more than] \$600 or more; or

(2) the prize amount shall be made available in the subscriber's [player] account, if the prize is less than \$600 [or less].

* * *

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§ 5002.7. [Payments to single claimant only] Claim requirements.

(a) One prize claim form per claimant. [A] Each prize claim form shall be filed in the name of a single legal entity as claimant, either one individual or one [organization] entity. [Multiple payees are not permitted, except as may be authorized pursuant to subdivision (d) of this section.]

(b) Entity as claimant. A prize claim may be entered in the name of an [organization] entity (e.g., a limited liability company, partnership, corporation, trust) only if the [organization] entity possesses a Federal employer identification number [(FEIN)] (FEIN) issued by the Internal Revenue Service and such number is shown on the prize claim form. Each person who will receive any beneficial interest in a portion of the prize through the claiming entity shall submit such personal identifying information as the commission may require, to assist the commission in applying any offset liability required by Tax Law sections 1613-a, 1613-b and 1613-c. Groups[, family units, clubs,] or [organizations] entities without [a Federal employer identification number shall designate one individual in whose name the claim is to be filed] an FEIN are not permitted to claim in the name of the group or entity.

[(c) If a claim is erroneously entered with multiple claimants, the claimants shall designate one of them as the individual recipient of the prize, or, if they fail to designate an individual recipient, the commission may designate any one of the claimants as the sole recipient. In either case, the claim shall then be considered as if such claim were originally entered in the name of the designated individual and payment of any prizes won shall be made to that single individual.]

[(d) Under exceptional circumstances, payment may be made to multiple payees at the discretion of the commission.]

* * *

§ 5002.10. Unclaimed and abandoned prize money.

* * *

(b) The commission may determine that a prize has been abandoned whenever more than 18 months have elapsed since a prize payment check was mailed to the last known address of the claimant and either such check has been returned undelivered [by the United States Postal Service] and the claimant cannot be located or such check has not been returned undelivered and has not been presented for payment. Any prize so determined to have been abandoned shall be paid to the State Comptroller for administration pursuant to the Abandoned Property Law.

* * *

§ 5002.11. Prize rights un-assignable.

No right of any person to a prize shall be assignable, except that any prize may be paid to the estate of a deceased prize winner, and except that any [person] assignee, pursuant

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to an appropriate judicial order of a court of competent jurisdiction, may be paid the prize to which the winner is entitled. For the purposes of this section, payment of a prize or a portion thereof to [the Department of Social Services either] any of the agencies described in this section shall be deemed to be paid pursuant to an appropriate judicial order of a court of competent jurisdiction. The commission shall be discharged of all liability upon payment of a prize pursuant to this section. A prize, or a portion thereof, may be paid to:

(a) the Office of Temporary and Disability Assistance, pursuant to an agreement under Tax Law section 1613-a where the [Department of Social Services] Office of Temporary and Disability Assistance has informed the commission that the [winner] claimant has failed to obey a court order requiring the [winner] claimant to [support the winner's dependents] pay past-due support; [or]

(b) the Office of Temporary and Disability Assistance, pursuant to an agreement under Tax Law section 1613-b where the [Department of Social Services] Office of Temporary and Disability Assistance has identified the [winner] claimant as a recipient of public assistance benefits who is liable to reimburse the State for such benefits; and

(c) the Department of Taxation and Finance, pursuant to an agreement under Tax Law section 1613-c where the Department of Taxation and Finance has informed the commission that the claimant has past-due tax liabilities [shall be deemed to be payment pursuant to an appropriate judicial order. The commission shall be discharged of all liability upon payment of a prize pursuant to this section].

* * *

§ 5002.13. Prize payable for life.

[(a) When a claim has been filed on behalf of multiple claimants on a jackpot ticket eligible for a prize payable for life, such as the "\$1,000 a week for life" prize, prior to the jackpot drawing wherein such prize is to be awarded:]

[(1) The multiple claimants shall designate in writing which one of them is to be identified as the person on whose life the prize is to be paid and execute an agreement evidencing such intent.]

[(2) In the event that the multiple claimants fail to execute such an agreement as provided in subdivision (a) of this section, the commission shall designate the youngest of such multiple claimants as the person on whose life such prize is to be paid.]

[(b) The age of the person on whose life the prize is to be paid may be initially determined by that which is shown on a driver's license or other official document, subject to later verification by the commission of birth records. Initial payments may be made based on the first determination of age but once official birth records are established the prize payment will be based on that date.]

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[(c)When there are multiple claimants for a “\$1,000 a week for life” prize, and the life on which the prize is payable pursuant to subdivision (a) of this section, is terminated by death, the payment on the prize is immediately established as a top limit of \$1,000,000. The pro rata share of the decedent will be paid to the decedent's estate and in accordance with commission rules and regulations. Pro rata payments to each other living multiple claimant or claimants for the same prize will continue until a total of \$1,000,000 in prize money has been paid.]

[(d) The term life as used in this section means the life of a natural person.]

[(e) In the event that a claim is filed on behalf of a legal entity, other than a natural person, and such legal entity is eligible for a prize payable for life, the legal entity shall designate an officer or member of that legal entity as the person on whose life such prize is to be paid, and shall execute an agreement evidencing such designation. If for any reason the legal entity fails to execute evidence of such designation, the commission may designate the chief officer of such legal entity, or some other person if deemed more appropriate in the discretion of the commission, as the person on whose life the prize is to be paid.]

When a prize claim is filed on a jackpot ticket eligible for a prize payable for life, such as the “\$1,000 a week for life” prize, payments shall be made annually for:

(a) the natural life of the person filing the prize claim, if the claimant is a single natural person who is not a minor under the age of 18, provided, however, that if the person filing the prize claims dies before 20 annual payments elapse, the prize shall continue to be paid, to the decedent’s estate or otherwise as provided by law, until a total of 20 annual payments have been made for the prize claim, at which time such prize payment shall cease and the State shall have no further obligation with respect to such prize claim; and

(b) 20 annual payments, if the claimant is:

(1) an entity;

(2) a group comprising, directly or indirectly, more than one natural person, without regard to the lifespan of any natural person with an interest in such prize claim; or

(3) a minor under the age of 18.

In the event of death of any natural person who is a member of a group claiming the prize, such decedent’s interest in such prize claim shall be paid to the decedent’s estate or otherwise as provided by law.

(c) Prize claims filed before April 1, 2024 for a prize payable for life shall be governed by the rules and regulations in effect at the time such prize claim is filed, notwithstanding anything to the contrary in this section.

* * *

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§ 5004.5. Number and amount of prizes.

For each lottery game, the commission shall designate the number and type of prizes to be awarded [in a directive]. The number of winners in each drawing may vary depending upon game design, the distribution of tickets sold, the number of tickets sold, and the number of valid winning tickets claimed.

* * *

PART 5005

Lottery Subscriptions

Section	
5005.1	Subscription program
5005.2	Subscription definitions
5005.3	Subscription [costs] <u>cost</u>
5005.4	Subscription application requirements
5005.5	Valid subscription entry
5005.6	Payment of subscription prizes
5005.7	Subscription disputes
5005.8	Subscription miscellaneous
<u>5005.9</u>	<u>Non-sufficient funds</u>
<u>5005.10</u>	<u>Suspicious transactions</u>

§ 5005.1. Subscription program.

(a) Subscription play. The commission may establish a commission-administered [A] subscription program [may be established at the discretion of the commission] for any commission [game(s)] game or games. The subscription program may permit a subscriber to play the same game character selections for a period of consecutive drawings over a stated period in such games as the commission may decide.

(b) Application or renewal forms. Entry into a subscription program will require the completion and submission of [either a paper or] an electronic [version of:

(1) a] subscription application form[;] or

[(2) a] an electronic subscription renewal form.

The subscriber may provide the subscriber's social security number or taxpayer identification number on the respective application form so that prizes requiring [Federal] tax reporting or withholding may be [automatically] sent or credited to the winning subscriber. [An application for a group subscription must contain the names and addresses of each group member.]

(c) Social security number or taxpayer identification number. By providing the social security number or taxpayer identification number, the subscriber [is authorizing] authorizes the commission to retain and use the number for the purpose of tax reporting

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and any other lawful purpose of the commission. [No group may exceed 10 members if such group's application was made by mail.]

§ 5005.2. Subscription definitions.

* * *

(b) *Confirmation* means the [paper or] electronic correspondence sent to a subscriber from, or on behalf of, the commission confirming the [game(s)] game or games, game characters for each game panel played, [the type of plan,] the effective date and the expiration date.

* * *

[(g) *Group* means two or more individuals sharing a game subscription whose combined qualifications meet that of an individual subscriber.]

[(h) *Group representative* means the individual designated on a group application as the person selected by the group subscribers to act on behalf of the group in handling any communications and prize payments related to the subscription.]

[(i) *Plan* means the game(s) played, the number of consecutive drawings played and the duration of the subscription as determined by the number of weeks selected by the subscriber.]

[(j)] (g) *Quick Pick* means the option for a subscriber to have game characters randomly selected by a computer. Once selected, the same quick pick characters [remain valid and] will be used for each drawing for the duration of the subscription.

[(k)] (h) *Subscriber* means [either] the individual [or the group] identified on an application as the [person(s)] person entitled to any prize the individual [or group] may win.

[(l)] (i) *Subscriber identifying information* means the name, address, subscription number and, taxpayer identification number (if provided) of the subscriber [or each member of a group].

[(m) *Subscription costs* means the cost of the subscription purchased by the subscribers as defined section 5005.3 of this Part.]

[(n)] (j) *Subscription file* means a file maintained by the commission or the commission's contractors containing subscription information and used in the determination of sales and prizes.

[(o)] (k) *Subscription number* means the number assigned by the commission to a subscription record when the original application is processed.

[(p)] (l) *Valid subscription entry* means one that includes the following: subscriber identifying information (as defined [herein] in this section), game characters entered on

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the appropriate commission or contractor computer system that is the official record of subscription entry.

[(q) *Valid group subscription entry* means one that includes the following: subscriber identifying information for each member of the group, game numbers entered on the appropriate commission or contractor computer system, which is the official record of group subscription entry.]

§ 5005.3. Subscription [costs] cost.

(a) Minimums. For each subscription, a minimum of one game panel must be selected for a minimum number of weeks or drawings, as determined by the commission.

(b) Game panels. A subscription may be for one or more game panels, as may be determined by the commission.

(c) Cost. The cost of a subscription [plan] shall be determined by the commission. The commission may establish a subscription account program through which a [player or players] subscriber may purchase a subscription or subscriptions and receive payment of a prize, as determined by the commission. The commission may require that a [player or players] subscriber maintain a minimum balance in such a subscription account to continue to participate in the program.

(d) Reservation of commission rights. The commission reserves the right to alter, temporarily or permanently, the [costs] cost of a subscription [plan] at the discretion of the commission. The commission reserves the rights to suspend or cancel any drawing or the game itself[,] or change the prize structure, frequency of draws or draw dates. In the event of such a change, an affected subscriber will receive participation in a revised game, equivalent in value to the remainder of such subscriber's subscription, or a refund, at the sole option of the commission.

(e) Commission determinations. Any determination by the commission described in this section may be made for any of the following reasons:

- (1) to make the subscription program more appealing or convenient for players;
- (2) to further the commission's mission of raising revenue for aid to education; or
- (3) to allow the commission to administer the subscription program more effectively.

§ 5005.4. Subscription application requirements.

(a) [To be accepted for entry without changes, a subscription application must meet the following requirements:]

- [(1) Each game panel must contain the required amount of unduplicated game numbers selected from the numbers available for the game that the applicant indicates on his or her application. If a game panel submitted by an applicant contains no game

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numbers or fewer than the required amount of game numbers, the quick pick option may be used to randomly select game numbers. If an applicant submits an application with more than the required amount of game numbers circled in a game panel, the commission may select the required number of game numbers consecutively from among such selected numbers. All other numbers may be disregarded.]

[(2) The application must include the applicant's identifying information, including identifying information for each member of a group applicant. If an application is submitted without complete applicant identifying information, the commission may seek additional information from the applicant. Regardless of whether the applicant responds with additional information requested by the commission, the application may, nevertheless, be accepted if there is sufficient information to identify by name at least one individual applicant or one individual member of a group applicant. In such case, the commission may pay any prize won by the subscription to any person identifiable as an applicant or as a member of a group applicant from the incomplete applicant identifying information submitted with the application, and such payment may be reported to the appropriate taxing authorities as income paid to such person with any required withholding tax to be credited to such person.]

[(b) An] Rejection of application. A subscription application may be rejected for any of the following reasons:

(1) [if the application is illegible in whole or in part] all information required by the commission is not provided;

(2) [if] the application includes a form of payment that is not acceptable to the commission or the form of payment is rejected;

(3) [if] the applicant is under [the age of] 18 years of age; [or]

(4) [if the applicant does not submit a New York State address for a subscription submitted through the U.S. Mail] the applicant's identity cannot be verified;

(5) the applicant's physical location cannot be identified at time of attempted purchase;

(6) the applicant's physical location is outside the State or any commission-designated prohibited sales area at time of attempted purchase; or

(7) the applicant is on the commission's voluntary self-exclusion list.

[(c)] (b) Termination. A subscription may be terminated after acceptance if, before or after the start date, the commission is notified that the payment for the subscription is invalid[,] (e.g., a [check] payment returned for [insufficient] non-sufficient funds). In such event, the subscription shall be deemed invalid, and no prizes will be paid to the applicant [during] relating to any period in which the subscription was invalid.

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§ 5005.5. Valid subscription entry.

To be a valid entry, a subscription must meet the following requirements:

(a) Official record. To be eligible to win a prize, an application, including the [subscriber identification] subscriber-identification information, and the game [numbers] character selections must be entered into the [division's] commission's subscription file to create the official record of subscription entry.

(b) Confirmation. A confirmation [(paper or electronic)] shall be issued by the commission to the subscriber confirming a [valid] subscription entry [has been received] is valid and has been processed.

§ 5005.6. Payment of subscription prizes.

(a) Amount below a threshold. [Prizes] A prize that [are] is less than [the threshold withholding amount for Federal tax reporting] \$600 will be placed into the [player] subscriber account created prior to purchase of the [player's] subscriber's first subscription. Such [prizes] prize may be used to purchase additional subscriptions or the [player] subscriber may request a cash-out and receive payment for any unpaid prizes. Payment will be made to the individual subscriber [or group representative] whose name appears on the application.

(b) Amount at or above a threshold. [Prizes] A prize that [meet or exceed the threshold amount for Federal withholding for an individual] is \$600 or more will be remitted to the individual subscriber whose name appears on the application minus [the] any required withholding amount and offsets.

[(c) For payment of a prize that meets or exceeds the threshold amount for Federal withholding to a group subscriber, a payment representing the designated share of the prize will be remitted to each individual member of the group. If the subscription or renewal application does not show the taxpayer identification number (social security number or Federal employer identification number) of each group member, the division will withhold appropriate income taxes in accordance with the applicable back-up withholding rules.]

[(d) A group subscription entry will be treated as a single entry in the prize pool and shall also be treated as a single entry when determining if a prize in the game is payable in annual installments as provided in this Title.]

§ 5005.7. Subscription disputes.

(a) [The commission is not responsible for disputes between or among subscription group members.

(b)] Remedy. In any dispute with the commission concerning the right to a subscription prize, the commission shall have the right to resolve such dispute by [paying the prize or] refunding the price of the disputed subscription [fee] panel. If a refund is paid, the refund

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[shall be based on the remaining unused value of the subscription and] shall be the sole and exclusive remedy of the [subscriber(s)] subscriber.

[(c)] (b) Resolution of discrepancies. If there is a discrepancy between the information set forth on an application and the information set forth in a confirmation [letter] notification, the subscriber may ask the commission, by written or electronic communication, to resolve the discrepancy. After such a report is received by the commission, the commission shall resolve the discrepancy as soon as possible and issue a revised confirmation [letter] notification. Resolution may include, [but is not limited to] without limitation, cancellation of the subscription. No change in the subscription shall be effective until a revised confirmation [letter] notification is issued. No request to resolve a subscription panel game character selection or subscription date range discrepancy shall be accepted after the effective date in the confirmation [letter] notification issued.

§ 5005.8. Subscription miscellaneous.

(a) Games. The commission, pursuant to the commission's statutory authority, may from time to time add games to the commission's subscription program.

(b) Renewal. A subscription renewal must be processed prior to the expiration date of a current subscription in order to avoid a lapse in the subscription. A renewal application containing current subscription number, games, game numbers, [plan,] effective date and expiration date will be sent to the subscriber [either] electronically [or by mail]. The commission will make reasonable efforts to process renewal applications to assure no interruptions; however, the commission shall not be responsible for an interruption if a renewal application is not processed in sufficient time.

(c) Non-refundability. Once a subscription is entered into the subscription file, the funds paid for the subscription are not refundable.

(d) Promotions. If the commission offers any promotional offer for a subscription, the commission reserves the right to limit the number of promotional subscriptions that may be received by a [person or group] subscriber.

(e) Reservation of commission rights. The commission reserves the right to exclude subscribers from participation in a promotion offering special payments or prizes.

[(f) Any subscription commenced prior to the effective date of the subscription regulations set forth in this Part shall be subject to the regulations that were in effect at the time such subscription was commenced. Any subscription commenced on or after the effective date of the subscription regulations set forth in this Part shall be subject to this Part.]

§ 5005.9. Non-sufficient funds.

If the commission receives notice that there are non-sufficient funds to pay for any portion of a subscription purchase, the portion of the attempted ticket purchase for which there are non-sufficient funds shall be null and void.

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§ 5005.10. Suspicious transactions.

The commission may suspend a subscription account if the commission determines that transactions or attempted transactions are suspicious, excessive or potentially fraudulent.

* * *

§ 5007.2. Mega Millions definitions.

(a) The following definitions shall apply to Mega Millions.

(1) *Annuity option* is the manner in which the Mega Millions jackpot prize may be paid in 30 annual installments.

(2) *Authorized claim center* means any place designated by the commission where a ticket holder or such ticket holder's representative may file a claim for a prize in accordance with instructions of the commission.

[(3) *Claimant* means any person or entity submitting a claim form within the required time period to collect a prize for any Mega Millions ticket. A claimant may be the person or entity named on a signed Mega Millions ticket, or the bearer of an unsigned Mega Millions ticket. No claimant may assert rights different from the rights acquired by the original purchaser at the time of purchase.]

[(4)] (3) *Jackpot prize* means, for the Mega Millions game, the prize awarded for selecting all the numbers drawn from both fields. If more than one player from all participating lottery states has selected all the numbers drawn, the jackpot prize shall be divided among those players. Jackpot prize may also be referred to from time to time as *grand prize*. For any other game, the jackpot prize will be identified in game rules issued for such game.

[(5)] (4) *Lump sum option* means the manner in which the Mega Millions jackpot prize may be paid in a single payment.

[(6)] (5) *Mega Millions play area* is, for the on-line Mega Millions game, the areas on a Mega Millions play slip identified by an alpha character, A through E, containing two separate fields—one field of 70 and a second field of 25—both containing one- or two-digit numbers each. This is the area where the player, or computer if the player is using the quick pick option, will select five one- or two-digit numbers from the first field and will select one one- or two-digit number from the second field.

[(7)] (6) *Mega Millions play slip* means, for the Mega Millions game, a computer-readable form, printed and issued by the New York Lottery, used in purchasing a Mega Millions ticket, having up to five separate play areas. The play slip also provides for multiple drawing wagering up to 26 draws.

[(8)] (7) *Mega Millions ticket* means a game ticket, produced on official paper stock, by a lottery sales agent in an authorized manner, bearing player- or computer-selected

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numbers, game name, drawing dates, amount of wager, jackpot prize payment option and validation data.

[(9)] (8) *Mega Millions winning numbers* are, for the on-line Mega Millions game, five one- or two-digit numbers, from one through 70 and one one- or two-digit number from one through 25, randomly selected at each Mega Millions drawing, which shall be used to determine winning Mega Millions plays contained on Mega Millions tickets.

[(10)] (9) *Pari-mutuel* means, for the Mega Millions game total amount of prize money allocated to pay prize claimants, at the designated prize level, divided among the number of winning Mega Millions tickets.

[(11)] (10) *Party lottery or party lotteries* means one or more of the State lotteries established and operated pursuant to the laws of any State lottery that becomes a signatory to the Mega Millions game agreement.

[(12)] (11) *Prize fund* means that portion of Mega Millions gross sales set aside for the payment of prizes.

[(13)] (12) *Purchaser(s)* means player(s) of Mega Millions who purchase tickets within New York State in accordance with Mega Millions rules and New York State governing laws and regulations.

[(14)] (13) *Quick pick* has the meaning set forth in paragraph (11) of subdivision (a) of section 5004.9 of this Subchapter.

* * *

§ 5007.5. Play characteristics and restrictions.

* * *

(d) Under no circumstances will a prize claim be paid for either the jackpot prize or the second prize without a Mega Millions ticket matching all game play, serial number and other validation data residing in the commission's [draw] computer gaming system [computer] and such ticket shall be the only valid proof of the wager placed and the only valid receipt for claiming or redeeming any prize.

* * *

§ 5007.15. Cash 4 Life.

(a) *Definitions.* The following definitions apply to the Cash 4 Life game:

(1) *Annuity option* means the manner in which the Cash 4 Life jackpot prize or second-level prize level may be paid in annual installments.

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(2) *Cash 4 Life play slip* means a computer-readable form, printed and issued by the commission, used in purchasing a Cash 4 Life ticket, having up to five separate play areas. The play slip shall also provide for multiple-drawing wagering up to a specified number of draws.

(3) *Cash 4 Life ticket* means a game ticket, produced on official paper stock, by a lottery sales agent in an authorized manner, bearing player- or computer-selected numbers, game name, drawing date (or dates), amount of wager and validation data.

[(4) *Claimant* means any person or entity submitting a claim form within the required time period to collect a prize for any Cash 4 Life ticket.]

[(5)] (4) *Jackpot prize* means the prize awarded for selecting all the winning numbers drawn from both fields for the Cash 4 Life. If more than one player from all participating lottery states has selected all the winning numbers drawn, the jackpot prize shall be divided among those players, as set forth in subdivision (h) of this section.

[(6)] (5) *Liability limit* means a pre-established upper threshold, as determined and announced by the party lotteries before sales commence for a drawing to which such threshold applies, equal to a fixed percentage of the gross ticket sales receipts for a particular drawing (or such fixed percentage plus an additional reserve amount), according to the established procedures agreed to by the party lotteries.

[(7)] (6) *Lump sum option* means the manner in which particular Cash 4 Life prize levels may be paid in a single payment, as set forth in this section.

[(8)] (7) *Measuring life* means the period over which a jackpot or second-level annuitized prize is paid out. For each winning ticket, the measuring life shall be [the natural life of the individual determined by the commission to be a valid prize winner. If:] determined according to the period in which payments shall be made pursuant to section 5002.13 of this Subchapter.

[(i) a minor under the age of 18 claims a prize;]

[(ii) a legal entity other than an individual claims a prize; or]

[(iii) more than one natural person claims a prize on the same ticket,]

[the measuring life for such prize shall be 20 years.] The measuring life shall be determined at the time a jackpot or second-level prize is claimed.

[(9)] (8) *Party lotteries* mean one or more of the State lotteries established and operated pursuant to the laws of any state that becomes a signatory to the Cash 4 Life agreement.

[(10)] (9) *Play area* is the area on a Cash 4 Life play slip containing two separate fields: one field of 60 one- or two-digit numbers (1 to 60 inclusive) and a separate and

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distinct second field of four one-digit numbers (1 to 4 inclusive) (which may be referred to as the *Cash Ball number*). This is the area from which the player, or computer, if the player is using the quick pick option, selects five numbers from the first field and one number from the second field.

[(11)] (10) *Prize pool* means that portion of Cash 4 Life gross sales set aside for the payment of prizes.

[(12)] (11) *Purchaser* means a player of the Cash 4 Life game who purchases a ticket within New York State in accordance with Cash 4 Life rules and New York State governing laws and regulations.

[(13)] (12) *Quick pick* has the meaning set forth in paragraph (11) of subdivision (a) of section 5004.9 of this Subchapter.

[(14)] (13) *Winning numbers* are five one- or two-digit numbers (1 to 60, inclusive) and one Cash Ball number (1 to 4, inclusive), randomly selected at each Cash 4 Life drawing, that shall be used to determine winning Cash 4 Life plays contained on Cash 4 Life tickets.

* * *

(g) *Jackpot and second-level prize payment options.* A claimant of a valid winning jackpot or second-level prize in New York must select either an annuity option or lump sum option. A jackpot or second-level prize shall be paid as an annuity prize, unless a winner elects, within 60 days after the claimant becomes entitled to such prize, to be paid a lump sum payment or unless a lump sum payment is required as set forth in subdivision (h) of this section. If a lump sum payment is selected the prize amount shall be determined according to a methodology that shall be established by the party lotteries. An election made by a claimant is final and cannot be revoked, withdrawn or otherwise changed without the approval of the commission. [Unless a lump sum payment is paid in accordance with this section, annuitized prize payments shall be made for the measuring life of the jackpot prize or second-level prize winner or for a minimum of 20 years.] The schedule of payments for an annuity prize shall be determined by the commission. If paid in a lump sum payment, a jackpot prize or second-level prize amount shall be rounded to the nearest whole dollar.

* * *

§ 5007.16. Monopoly™ Millionaires' Club™.

(a) *Definitions.* The following definitions apply to the MONOPOLY Millionaires' Club:

(1) *Annuity option* means the manner in which the MONOPOLY Millionaires' Club top prize may be paid in annual installments.

[(2)] *Claimant* means any person or [entity submitting a claim form within the required time period to collect a prize for any MONOPOLY Millionaires' Club ticket.]

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[(3)] (2) *Lump-sum option* means the manner in which MONOPOLY Millionaires' Club top prize may be paid in a single payment as set forth in this section.

[(4)] (3) *Millionaires' Club prize* means a single payment prize (prize level 11) with a value of \$1,000,000 drawn independently from the other MONOPOLY Millionaires' Club prizes (prize levels 1-10).

[(5)] (4) *MONOPOLY Millionaires' Club play slip* means a computer-readable form, printed and issued by the commission, used to mark a player's numbered selection when purchasing a MONOPOLY Millionaires' Club ticket, having up to four separate play areas.

[(6)] (5) *MONOPOLY Millionaires' Club ticket* means a game ticket, produced on official paper stock, by a lottery sales agent in an authorized manner, bearing player- or computer-selected numbers, game name, drawing date, amount of wager and validation data. Each such ticket shall bear a unique non-repeating transactional number associated with that play.

[(7)] (6) *Pari-mutuel* means, for this section, the total amount of prize money allocated to pay prize claimants, at the designated prize level, divided among the number of winning MONOPOLY Millionaires' Club ticket.

[(8)] (7) *Party lotteries* mean one or more of the state lotteries established and operated pursuant to the laws of any state that are part of the national premium game product group that offers the MONOPOLY Millionaires' Club lottery game.

[(9)] (8) A *play* is one entry into a MONOPOLY Millionaires' Club drawing.

[(10)] (9) *Play area* is the area on a MONOPOLY Millionaires' Club play slip containing one field of 52 one- or two-digit numbers (1 to 52, inclusive). This is the area from which the player selects five numbers from the first field of 52 if the player is not using the quick pick option and allowing the computer system to select up to five numbers at random.

[(11)] (10) *Prize pool* means that portion of MONOPOLY Millionaires' Club gross sales set aside for the payment of prizes.

[(12)] (11) *Purchaser* means a player of MONOPOLY Millionaires' Club who purchases a ticket within New York State in accordance with MONOPOLY Millionaires' Club rules and New York State governing laws and regulations.

[(13)] (12) *Quick pick* has the meaning set forth in paragraph (11) of subdivision (a) of section 5004.9 of this Subchapter. Quick pick is a player option in the MONOPOLY Millionaires' Club game for selection of up to five number selections ranging from one through 52, but the number ranging from one through 28, representing a MONOPOLY property, must be selected by quick pick.

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[(14)] (13) *Top prize* means the game prize awarded when a player's selections matches all five winning numbers from the field of 52 and the property number drawn from the field of 28 numbered MONOPOLY properties for the MONOPOLY Millionaires' Club. If more than one player has selected all the winning numbers drawn, the top prize shall be divided equally among those players.

[(15)] (14) *Set prize or low-tier prizes* (prize levels 2-10) means, except as otherwise specified in this section, all prizes (other than the top prize and Millionaires' Club prizes) that are to be paid in a single payment as established by this section for each prize level.

[(16)] (15) *Winning numbers* are five one- or two-digit numbers (1 to 52, inclusive) and one number (1 to 28, inclusive), randomly selected at each MONOPOLY Millionaires' Club drawing, that shall be used to determine winning MONOPOLY Millionaires' Club plays contained on MONOPOLY Millionaires' Club tickets.

* * *

§ 5008.2. Payment of prizes.

(a) Calculation of prizes. Prizes for the Lotto game shall be calculated as follows:

* * *

(b) First-prize payments. Each [first prize] first-prize payment shall be subject to the following provisions of this subdivision.

(1) If, pursuant to [paragraph (1) of] subdivision (a)(1) of this section, the calculated share for each game panel qualifying for a first prize in a particular Lotto drawing would provide annual payments of \$10,000 or more, a winner shall receive an initial payment in an amount as similar as possible to the first annuity payment. After providing for such a first payment, the commission, as authorized by the comptroller, shall invest the remaining [first prize] first-prize money in securities authorized by the State Finance Law for the investment of state funds at current rates payable over a period of years. From the returns of principal and earnings on such investment, the commission shall pay annual prize installments to each [first prize] first-prize winner. Such annual prize installments shall be payable for a term of years to be determined by the commission. The number of years in the term payment schedule may be changed by the commission from time to time. Any such change will be publicly announced by the commission. Such announcement may be made in a news release, an advertisement, on the commission website, or in such other form as the commission, in the commission's discretion, may prescribe to maximize public awareness. Lotto players may elect whether a first prize shall be payable in installments over a term of years in accordance with the foregoing provisions of this paragraph or, alternatively, whether a first prize shall be payable in a lump sum. If a prize is awarded in a lump sum as a result of a player having elected that option, the amount of the [lump sum] lump-sum payment shall be equal to the first prize discounted to present value based upon market rates on the business day following

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the drawing, divided by the number of game panels qualifying for a first prize. A jackpot prize shall be paid, at the election of a player made no later than 60 days after the player becomes entitled to the prize, with either an annuity or [lump sum] lump-sum payment. If the payment election is not made by a player within 60 days after the player becomes entitled to the prize, then the prize shall be paid as an annuity prize. An election to take a [lump sum] lump-sum payment may be made at the time of the prize claim or within 60 days after the winner becomes entitled to the prize. An election made after the winner becomes entitled to the prize is final and cannot be revoked, withdrawn or otherwise changed without the approval of the commission.

(2) If, pursuant to [paragraph (1) of] subdivision (a)(1) of this section, the calculated share for each game panel qualifying for a first prize in a particular Lotto drawing would provide annual payments of less than \$10,000, a winner shall receive the entire prize in a single payment. Such payment shall be equal to the first prize discounted to present value based upon market rates on the business day following the drawing, divided by the number of game panels qualifying for a first prize.

(c) Carryovers and guaranteed prize amounts.

(1) If in any Lotto drawing, there is no game panel eligible for a first prize, the amount allocated from the prize pool to the [first prize] first-prize category, plus any amount brought forward from a previous drawing, shall be added to the [first prize] first-prize category for the next drawing.

(2) If the commission has announced a guaranteed [first prize] first-prize amount for any Lotto drawing, and if the amount allocated from the winning pool to the [first prize] first-prize category, plus any amount brought forward from a previous drawing, is insufficient to pay the guaranteed first prize, then the amount necessary to fulfill the guarantee shall be added from the Lotto [prize fund] prize-fund reserve or any other available source to the [first prize] first-prize category. If, however, there is no game panel qualifying for the [first prize] first-prize category in such drawing, no amount from the Lotto prize fund reserve shall be brought forward to the [first prize] first-prize category for the next drawing. If the commission has announced a guaranteed [first prize] first-prize amount for any Lotto drawing, and if the amount allocated from the winning pool to the [first prize] first-prize category, plus any amount brought forward from a previous drawing, exceeds the amount necessary to pay the guaranteed first prize, then the excess may be allocated to the Lotto [prize fund] prize-fund reserve established pursuant to [subdivision (c) of] section 5008.7(c) of this Part.

(3) If, in any Lotto drawing, there is no game panel qualifying for the [second prize] second-prize category, the amount allocated from the winning pool to the [second prize] second-prize category, plus any amount brought forward from a previous drawing, shall be added to the [second prize] second-prize category for the next drawing.

[(d) Within a time period specified by the commission following the draw date, a claimant may present a valid winning Lotto ticket valued at \$600 dollars or less for payment at a

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licensed retailer; thereafter, the winning ticket may only be claimed at a customer service center approved by the commission by mailing the ticket to the commission. Lotto tickets may be purchased at any location equipped with a lottery computer terminal.]

[(e)] (d) First-prize winners. [First prize] First-prize winners shall receive payment not earlier than the 14th day after the relevant draw date.

[(f)] (e) Rounding. For the purpose of calculating any prize to be paid, the calculation shall be rounded down so the prize can be paid in multiples of one dollar.

[(g)] (f) One prize per game panel. The holder of a winning ticket may win only one prize per game panel in connection with the winning numbers drawn for a particular Lotto game, but shall be entitled to the highest prize won by those numbers.

* * *

§ 5008.11. Distribution of prize money for variations of the Lotto game.

(a) Prize calculation. Prizes for a variation of the Lotto game shall be calculated as follows:

(1) The first prize will be a prize of up to an amount designated by the commission, which will be paid as a lump sum. A first prize will be awarded to game panels matching six of six winning numbers for a particular drawing. The commission may limit the number of top first prizes for a particular drawing to no more than a designated number. If the limited number of top first prizes designated by the commission exceeded for a particular drawing, the winning [first prize] first-prize game panels will share equally in a maximum [first prize] first-prize pool equal to the product of the top [first prize] first-prize amount multiplied by the limited number of top first prizes designated by the commission. At the commission's discretion, the commission may change the top [first prize] first-prize amount and any such change will be publicly announced in advance of the effective date.

(2) Prizes paid to the [second] second- through [fourth prize] fourth-prize levels shall be fixed prizes as prescribed by the commission. There shall be a limit imposed on the [second] second- through [fourth prize] fourth-prize levels equal to a fixed percentage of the gross ticket sales receipts for that particular drawing. In the event that the limit would be exceeded for a particular draw, the [second] second- through [fourth prize] fourth-prize levels shall be calculated on a pari-mutuel basis in accordance with a formula established by the commission.

(3) The allocation of percentages of the prize pool to various prize categories may be changed by the commission from time to time. Any such change will be publicly announced by the commission.

(b) Additional version of game. In the event that the commission offers an additional version of the Lotto game, the method of calculation and distribution of prizes shall be publicly announced in advance by the commission.

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[(c)A valid winning ticket valued at \$600 or less and presented for payment within a number of days of the drawing date, as determined by the commission, may be redeemed by a lottery sales agent. All other valid winning tickets may be redeemed at a customer service center.]

[(d)] (c) Rounding. For the purpose of calculating any prize to be paid, the calculation shall be rounded down so that prize can be paid in multiples of one dollar.

* * *

§ 5013.3. Payment of prizes; chances of winning.

* * *

(c) *Payment of winning tickets.* Valid winning Quick Draw bet tickets valued at less than \$600 [or less] may be presented to any licensed lottery sales agent location for payment.

* * *

§ 5014.3. Conditions and requirements of licensure.

(a) *Conditions.* A courier service shall, as a condition of licensure:

* * *

(3) ensure the network includes the following features:

(i) a daily courier customer request limit of an amount approved by the commission, which may provide that prize amounts of less than \$600 [or less] awarded to a courier customer and credited to the courier customer's account may be excluded from the daily request limit;

* * *

§ 5014.14. Notification of and payment of prizewinners in draw games.

(a) *Notification.* A licensee shall notify a courier customer on whose behalf such licensee has purchased a winning draw game ticket of the amount of the prize within one hour of the commission's publication of the winning numbers and prize amounts. Such notification shall be made electronically through the network, secure electronic mail or other method approved by the commission. If the prize is [more than] \$600 or more, the licensee shall also notify the commission promptly of the identity of the prizewinner, the prize amount, the type of game, the date of the drawing and, for a draw game conducted more than once per day, the time of the drawing.

(b) *Draw game prizes [at or] below threshold.* For a draw game prize of less than \$600 [or less], a courier service shall validate the winning ticket and redeem the prize on behalf of the courier customer. Such prize amount shall be disbursed to the courier customer by

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Text to be added is underlined

crediting the courier customer's account, direct deposit to the courier customer's bank account, redeemed for cash or by other means approved by the commission.

(c) *Draw game prizes at or above threshold.*

(1) For a draw game prize of [more than] \$600 or more, a courier service shall deliver the physical winning ticket to the courier customer.

(2) A courier service shall provide electronically a courier customer who is a draw game prizewinner with a digitally completed prize claim form, tax withholding form and any other documentation required to redeem such prize, which the courier customer may use to claim the prize.

* * *

(3) A courier service shall provide the commission with all information the commission may request in regard to a prize of [more than] \$600 or more.

* * *

(d) *Printing prizewinner name on ticket.* Within a reasonable time after notifying a courier customer of winning a draw game prize of [more than] \$600 or more, a courier service shall print the prizewinner's full name, as set forth in such prizewinner's account, on the back of the draw game ticket.