

Title 23. Public Utilities and Regulated Industries
Chapter IX. Office of the Arkansas Lottery
Subchapter A. Generally
Part 370. Arkansas Scholarship Lottery Retailer Rules

Codification Notes. This part as promulgated prior to codification into the Code of Arkansas Rules provided as follows:

"Preface: The purpose of these rules is to prescribe the procedures for licensing and administering the statewide network of lottery retailers. These rules are issued pursuant to the authority vested in the OAL under Ark. Code Ann. §§ 23-115-601 et seq., and 23-115-207, and the Arkansas Administrative Procedures Act, §§ 25-15-201, et seq."

"11. Powers

11.1. All powers not specifically defined in these Rules are reserved to the Executive Director and the OAL under the Act."

Subpart 1. Generally

23 CAR § 370-101. Definitions.

As used in this part:

- (1) "Act" means the Arkansas Scholarship Lottery Act, Acts 2009, No. 606;
- (2) "Applicant" means a natural person, corporation, partnership, unincorporated association, or other legal entity applying for a contract with the Office of the Arkansas Lottery for the purpose of selling lottery games;
- (3) "Application" means the forms, documents, or other information that the Office of the Arkansas Lottery requires an applicant to submit to the Office of the Arkansas Lottery to apply for or maintain a retailer contract;
- (4) "Banks" means and includes all commercial banks, mutual savings banks, savings and loan associations, credit unions, trust companies, and any other type or

form of banking institution who are authorized to do business in the State of Arkansas and that are designated to perform banking institution functions, activities, or service in connection with the operations of the Office of the Arkansas Lottery for the:

- (A) Deposit and handling of lottery funds;
- (B) Accounting of the funds; and
- (C) Safekeeping of records;

(5) "Bar code validation" means a system which allows any winning lottery ticket, printed with computer-readable bar codes for a prize amount as determined by the Office of the Arkansas Lottery, to be read electronically at any claim center or lottery retailer location and paid by the retailer regardless of where the player purchased the ticket;

(6) "Claim center" means the Office of the Arkansas Lottery claim center located at the Office of the Arkansas Lottery main office in Little Rock, Arkansas, or any other location authorized by the Office of the Arkansas Lottery to validate and pay a winning ticket;

(7) "Compensation" means any money or anything of value received or to be received as a claim for services, whether in the form of:

- (A) A retainer;
- (B) A fee;
- (C) A salary;
- (D) An expense;
- (E) An allowance;
- (F) A forbearance;
- (G) A forgiveness;
- (H) Interest;
- (I) A dividend;
- (J) A royalty;
- (K) Rent; or
- (L) Any other form of recompense or any combination thereof;

(8) "Courier" or "courier service" (see also, "lottery courier" and "lottery courier service") means the delivery, conveyance, or assignment of any written, printed, or published devices for consideration with the purpose of facilitating participation in the lottery;

(9) "Debt" means a:

(A) Liquidated sum due and owing any claimant agency when the sum has accrued through contract, subrogation, tort, or operation of law regardless of whether there is an outstanding judgment for the sum; or

(B) Sum that is due and owing any person and is enforceable by the State of Arkansas;

(10) "Depository" means any entity, including a bank or state agency, performing activities or services in connection with the operation of the Office of the Arkansas Lottery for the:

(A) Deposit and handling of lottery funds;

(B) Accounting for lottery funds; and

(C) Safekeeping of tickets;

(11)(A) "Director of the Office of the Arkansas Lottery" means the individual appointed by the Governor to initiate, operate, supervise, and administer the Office of the Arkansas Lottery lottery games.

(B) The Director of the Office of the Arkansas Lottery serves in a dual capacity as a Director of the Department of Finance and Administration;

(12) "Game" means any individual or type of lottery authorized by the Office of the Arkansas Lottery pursuant to the act including without limitation instant tickets and online game tickets;

(13) "Immediate family" means:

(A) The father;

(B) The mother;

(C) The sister;

(D) The brother;

(E) The husband;

- (F) The wife;
- (G) The child;
- (H) The grandmother;
- (I) The grandfather;
- (J) The grandchild;
- (K) The father-in-law;
- (L) The mother-in-law;
- (M) The sister-in-law;
- (N) The brother-in-law;
- (O) The daughter-in-law;
- (P) The son-in-law;
- (Q) The stepchild;
- (R) The grandmother-in-law;
- (S) The grandfather-in-law;
- (T) The step grandchild; or
- (U) Any individual acting as parent or guardian;

(14) "Instant game" means a game in which a ticket is purchased and upon removal of a latex covering or other covering on the front of the ticket or the opening of the sealed ticket, the ticket bearer determines his or her winnings, if any, which are payable upon presentation to a retailer or to the Office of the Arkansas Lottery for payment;

(15) "Instant ticket" means a printed card or slip purchased for participation in an instant game;

(16) "Legal owner" means the individual or individuals whose name or names appear on the ticket or share in the space designated for "Name" or in the absence of such entry, the bearer of the ticket or share;

(17) "License" means an authorization granted by the Office of the Arkansas Lottery to a person to sell lottery games, including without limitation the execution of a contract between the Office of the Arkansas Lottery and the person relating to obligations and terms for operating as a retailer;

(18) "Lottery" or "lottery game" means the public gaming system or games established and operated by the Office of the Arkansas Lottery;

(19) "Lottery courier" or "lottery courier service" (see also, "courier" and "courier service") means the delivery, conveyance, or assignment of any written, printed, or published devices for consideration with the purpose of facilitating participation in the lottery;

(20) "Lottery proceeds" includes without limitation:

(A) Unsold instant tickets received by a retailer;

(B) Cash proceeds of the sale of any lottery products;

(C) Net of allowable sales; and

(D) Credit for lottery prizes paid to winners by retailers;

(21) "Lottery retailer" or "retailer" means any person licensed by the Office of the Arkansas Lottery to sell and dispense instant tickets and materials or lottery games;

(22) "Lottery ticket" or "ticket" means tickets or other tangible evidence of participation used in lottery games pursuant to the act;

(23) "Office of the Arkansas Lottery" or "office" means the Office of the Arkansas Lottery of the Department of Finance and Administration;

(24) "Online game" means a lottery game in which a player:

(A) Pays a fee to a retailer;

(B) Selects or requests a randomly generated (quick pick) combination of digits, numbers, or symbols, the type and amount of play, and the drawing date; and

(C) Receives a computer-generated ticket with those selections printed on it;

(25) "Online terminal" (see also, "terminal") means the electronic interface computer terminal through which a retailer enters by scan, play slip, or manually the combination of digits, numbers, or symbols selected by a player or by random number generator (quick pick) and by which online tickets are generated and claims validated;

(26) "Online ticket" means a computer-generated ticket issued by a retailer to a player as a receipt for the combination of digits, numbers, or symbols a player has selected by himself or herself or through a quick pick;

(27) "Operational rules" mean those rules adopted and published by the Office of the Arkansas Lottery setting forth the rules regarding the Office of the Arkansas Lottery's operations of the Arkansas Scholarship Lottery;

(28) "Person" means any:

- (A) Individual;
- (B) Combination of individuals;
- (C) Corporation;
- (D) Partnership;
- (E) Unincorporated association; or
- (F) Other legal entity;

(29) "Preliminary background check" means a completed Division of Arkansas State Police check;

(30) "Prize" means any award, financial or otherwise, awarded by the Office of the Arkansas Lottery;

(31) "Responsible person" means an individual who has the authority to enter into a contract with the Office of the Arkansas Lottery on behalf of themselves or any applicant;

(32) "Retailer" means a person who is licensed by the Office of the Arkansas Lottery to sell lottery games;

(33) "Retailer contract" means the document executed between the Office of the Arkansas Lottery and lottery retailer which sets forth the terms, conditions, and requirements between the parties;

(34)(A) "Retailer license application" means the document executed by the lottery retailer upon application for a license to sell lottery games and tickets.

(B) This document includes the type of retailer, including but not limited to special terms and conditions such as alternative forms of delivery as set forth herein in subdivision (8) of this section;

(35) "Retailer rules" means those rules adopted and published by the Office of the Arkansas Lottery setting forth the rules regarding Office of the Arkansas Lottery's licensing and administration of the statewide network of lottery retailers;

(36) "Share" means any intangible evidence of participation in a lottery;

(37) "Terminal" (see also, "online terminal") means the electronic interface computer terminal through which a retailer enters by scan, play slip, or manually the combination of numbers or symbols selected by a player or random number generator (also known as quick pick) and by which online tickets are generated and claims are validated;

(38) "Ticket" means any tangible evidence issued by a lottery to prove participation in a lottery;

(39) "Ticket bearer" means the person who has signed the ticket or has possession of the unsigned ticket;

(40) "Ticket number" means the preprinted number found on the back of each ticket which identifies that ticket as one (1) of a series of tickets;

(41) "Ticket pack number" means the printed number or numbers appearing on the back of each ticket;

(42) "Ticket vending machine" or "TVM" means a player self-service machine that can:

(A) Sell both online tickets and instant tickets;

(B) Report real-time sales of both online tickets and instant tickets, low and empty bins, a full cash box, jammed tickets, diagnostic and error messages, and low paper stock to the central system;

(C) Check and validate online tickets and instant tickets;

(D) Provide for either the cashing of online tickets and instant tickets via voucher or other payment method provided to a player which can be negotiated at retail or used on the TVM for a continued lottery play; and

(E) Provide for age control play as specified in Arkansas Code § 23-115-402(e)(1) and (2);

(43) "Validation" means the process of determining whether an instant or online ticket presented for payment is a winning ticket;

(44)(A) "Validation number" means the multi-digit number found on the face of the ticket.

(B) There must be a validation number on each ticket;

(45) "Website" means the Office of the Arkansas Lottery's lottery address at <http://myarkansaslottery.com/> or any other website that may be specified by the Office of the Arkansas Lottery;

(46) "Winner" means the holder of a lottery ticket determined to have:

(A) The required match or the specific alignment of the play numbers, digits, or symbols;

(B) The required sum of the play numbers or digits in accordance with the game rules for the specific game; or

(C) A redeemable prize amount indicated on its face; and

(47) "Winner confidentiality" means confidentiality from public disclosure of an individual within the context and provisions set forth in Arkansas Code § 23-115-404 et seq. (2021).

Authority. Arkansas Code §§ 23-115-207, 23-115-612.

Codification Notes. The Arkansas Scholarship Lottery Act is codified at Arkansas Code § 23-115-101 et seq.

23 CAR § 370-102. General policies.

(a) Application.

(1) This part shall apply to the administration of the statewide network of lottery retailers as licensed and regulated by the Office of the Arkansas Lottery.

(2) In any decision made under this part, the office shall take into account the particularly sensitive nature of the state lottery and shall act to promote and ensure security, honesty, fairness, and integrity in the operation and administration of the lottery and the objective of raising net lottery proceeds for the benefit of educational programs and purposes.

(b) **Administrative hearings.** All administrative hearings held under this part shall be held in accordance with the Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq.

Authority. Arkansas Code §§ 23-115-207, 23-115-612.

23 CAR § 370-103. Authority of director.

The Director of the Office of the Arkansas Lottery may:

- (1) Contract with retailers for the sale of lottery games and shares;
- (2) Establish a communication or line fee if determined to be a necessary business expense;
- (3) Investigate and conduct hearings pursuant to a retailer dispute;
- (4) Establish procedures for the collection of and penalties of retailer accounts;
- (5) Set fidelity fund and bond amounts for retailers; and
- (6) Take any other action necessary to carry out and implement the Arkansas Scholarship Lottery Act, § 23-115-101 et seq., and any other rule, procedure, directive, or order promulgated or issued by the Office of the Arkansas Lottery.

Authority. Arkansas Code §§ 23-115-207, 23-115-612.

Subpart 2. Application

23 CAR § 370-201. General.

Retailers must meet the statutory and regulatory requirements for licensing, the security and integrity standards of the Office of the Arkansas Lottery, and promote the best interest of the Arkansas Scholarship Lottery.

Authority. Arkansas Code §§ 23-115-207, 23-115-612.

23 CAR § 370-202. Application.

(a) A person interested in obtaining a license must submit an application to the Office of the Arkansas Lottery on a form supplied for that purpose by the office.

(b) The retail sales application shall be designed to solicit sufficient relevant information from an applicant to permit the office to evaluate the applicant and the sales location as required by the act and rules for issuance of a license by the office.

Authority. Arkansas Code §§ 23-115-207, 23-115-612.

23 CAR § 370-203. Application fee.

An applicant for a retailer license shall be charged the following fees:

- (1) Initial application fee: one hundred dollars (\$100);
- (2) Change of ownership fee: one hundred dollars (\$100);
- (3) Additional store location fee: twenty-five dollars (\$25.00);
- (4) Change of location fee: twenty-five dollars (\$25.00);
- (5) Change of responsible person fee: fifty dollars (\$50.00); and
- (6) Renewal fee: fifty dollars (\$50.00).

Authority. Arkansas Code §§ 23-115-207, 23-115-612.

23 CAR § 370-204. Disclosure.

(a)(1) The Director of the Office of the Arkansas Lottery may require any degree or type of disclosure necessary of the applicant or any other person in order to ensure the security and integrity of the lottery including:

- (A) The source of funds, financing, and business income used for the purchase and operation of the applicant's business;
- (B) The name and address of the owner or owners of the sales location;
- (C) A copy of all agreements whereby the applicant is entitled to possession of the sales location; and
- (D) The names and addresses of owners, officers, directors, or trustees who oversee or direct the operation of the business.

(2) If the parent company, general partner, limited partner, joint venturer, stockholder, member, or manager of a limited liability company is itself a corporation, trust, association, subsidiary, partnership, joint venture, or limited liability company, then the Director of the Office of the Arkansas Lottery may require that the applicant provide disclosure for such entity as if such entity were a responsible person itself.

(3) An applicant must disclose to the Office of the Arkansas Lottery all information required by the Director of the Office of the Arkansas Lottery.

(b) In making a determination regarding a licensing application, the Director of the Office of the Arkansas Lottery shall consider the following, including without limitation:

- (1) The applicant's financial responsibility;
- (2) Security of the applicant's place of business or activity;
- (3) Accessibility to the public including compliance with the Americans with Disabilities Act;
- (4) The applicant's integrity; and
- (5) The applicant's reputation.

(c)(1) The applicant for a retailer license shall be current in filing all applicable tax returns to the State of Arkansas and in payment of all taxes, interest, and penalties owed to the State of Arkansas, excluding items under formal appeal under applicable statutes.

(2) Information regarding the applicant's tax filing status will be supplied to the office by the Department of Finance and Administration.

(d) The Director of the Office of the Arkansas Lottery shall not select as a retailer any person who:

(1) Has been convicted of a criminal offense related to the security or integrity of a lottery in this or any other jurisdiction;

(2) Has been convicted of:

(A) Any illegal gambling activity, false statements, false swearing, or perjury in this or any other jurisdiction; or

(B)(i) Any crime punishable by:

(a) More than one (1) year of imprisonment;

(b) Fine of more than one thousand dollars (\$1,000); or

(c) Both.

(ii) Subdivision (d)(2)(B) of this section shall not apply if the person's civil rights have been restored and at least five (5) years have elapsed from the date of the completion of the sentence without a subsequent conviction of such a crime;

(3) Has been found to have violated the act or any rule, policy, or procedure of the office unless at least ten (10) years has passed since the violation or the office finds the violation both minor and unintentional in nature;

(4) Is a vendor or an employee or agent of a vendor doing business with the office;

(5) Is a member of the immediate family of a member of the office or the Arkansas Scholarship Lottery;

(6) Has made a statement of material fact to the office knowing the statement to be false;

(7) Is engaged exclusively in the business of selling tickets or shares;

(8) Is under eighteen (18) years of age; or

(9) Is a corporation or other form of business that is not authorized to do business in Arkansas.

Authority. Arkansas Code §§ 23-115-207, 23-115-612.

Codification Notes. The Americans with Disabilities Act of 1990 is codified primarily at 42 U.S.C. § 12101 et seq.

23 CAR § 370-205. Prohibitions.

An applicant shall not provide a gift or compensation to:

(1) The Director of the Office of the Arkansas Lottery;

(2) An Office of the Arkansas Lottery member;

(3) An office employee; or

(4) The immediate family member of:

- (A) The director;
- (B) An office member; or
- (C) An office employee.

Authority. Arkansas Code §§ 23-115-207, 23-115-612.

23 CAR § 370-206. Background check.

(a) An applicant for a retailer license is subject to a background check including a credit check and a criminal history check conducted by the Division of Arkansas State Police and the Federal Bureau of Investigation.

(b) Issuance of a retailer license is dependent on passing the required background checks.

(c) The applicant shall sign a consent to the release of information for all checks.

Authority. Arkansas Code §§ 23-115-207, 23-115-612.

23 CAR § 370-207. Waiver.

(a) In submitting an application, the applicant expressly waives any claim against the State of Arkansas, its agents, officers, employees, representatives, and the Office of the Arkansas Lottery, the Director of the Office of the Arkansas Lottery, agents, officers, employees, and representatives for damages that may result.

(b) Each applicant also accepts any risk of adverse public notice, embarrassment, criticism, damages, or claims which may result from any disclosure or publication by a third party of any public information on file with the office.

Authority. Arkansas Code §§ 23-115-207, 23-115-612.

Subpart 3. Retailer Licensure and Compensation

23 CAR § 370-301. Nontransferability of license.

(a)(1) A retailer license is not transferable and shall not be sold, given, or assigned to any person.

(2) In the event of the proven incapacity, death, receivership, bankruptcy, or assignment for benefit of creditors of any retailer, upon approval of the Director of the Office of the Arkansas Lottery, the license may be transferred to a court-appointed or court-confirmed guardian, executor or administrator, receiver, trustee, or assignee for the benefit of creditors, who may continue to operate the activity under the license, subject to the provisions of this part.

(b) The person to whom a license is transferred hereunder must be otherwise qualified to hold a license.

(c) The license following transfer shall be void upon that person ceasing to hold such a court-appointed or court-confirmed position.

(d) The director may condition the transfer of any license under this section upon the posting of a bond or cash in lieu of a bond in such terms and conditions as the director may require.

Authority. Arkansas Code §§ 23-115-207, 23-115-612.

23 CAR § 370-302. License term and renewal.

(a) A retailer's license remains in full force and effect until the termination date indicated upon the license, but in no case more than two (2) years from the date of the issuance of the license.

(b) The Director of the Office of the Arkansas Lottery may implement a program to issue licenses biennially if, in his or her discretion, it provides more efficient customer service to retailers and cost savings in the administration of the program.

(c) To request renewal of a retailer license, every licensed retailer shall file a renewal application and shall pay a renewal fee as set forth in 23 CAR § 370-203.

(d) A license shall not be issued or renewed until the retailer contract is signed.

Authority. Arkansas Code §§ 23-115-207, 23-115-612.

23 CAR § 370-303. Inspection.

A license grants the Office of the Arkansas Lottery the irrevocable authority to inspect the location where games may be sold or any other location under the control of the retailer where the Director of the Office of the Arkansas Lottery may have good cause to believe office materials and/or games are stored or kept.

Authority. Arkansas Code §§ 23-115-207, 23-115-612.

23 CAR § 370-304. Retailer loss coverage.

(a) A retailer shall be assessed an annual fee of up to one hundred dollars (\$100) per sales location to be deposited into the Office of the Arkansas Lottery's fidelity fund.

(b)(1) A retailer is required to post an appropriate bond as determined by the office.

(2) All retailers shall be bonded through the office's Self-Bond Program, and shall pay a one-hundred-dollar bond fee for each retailer location.

(3) The bond shall be renewed annually for each retailer location.

(c)(1) The Director of the Office of the Arkansas Lottery may increase or decrease the annual bond fee as warranted by the annual amount of defaulted obligations.

(2) In any event, the bond fee shall not be less than seventy-five dollars (\$75.00) or more than two hundred dollars (\$200).

(d)(1) A retailer's failure to abide by its financial obligations to the office per the retailer contract shall constitute a default.

(2) The office will pay a retailer's defaulted obligation from the pool of self-bond fees.

(3) Upon said payment, retailer shall be obligated to reimburse the office for the full amount of the defaulted obligation immediately.

(4) The office may institute any and all legal actions authorized by law to collect a defaulted obligation from a retailer.

(e)(1) The office may suspend a retailer's authority to sell lottery tickets for any period in which a retailer does not pay the bond required under this section or a defaulted obligation.

(2) A retailer's authority to sell lottery tickets may be reinstated upon payment of an outstanding bond or defaulted obligation.

(3) A retailer's failure to pay the bond or defaulted obligation may result in the termination of its license.

(4) The office may suspend a retailer's authority to sell lottery tickets for any period in which a retailer does not pay the bond required under this section or a defaulted obligation.

(5) A retailer's authority to sell lottery tickets may be reinstated upon payment of an outstanding bond or defaulted obligation.

(6) A retailer's failure to pay the bond or defaulted obligation may result in the termination of its license.

(f)(1) At the end of each fiscal year, the director may authorize inclusion of all or a portion of the unused bond fees in the revenues of the office for the fiscal year.

(2) The director may also allow a retailer to deposit and maintain with the office securities that are interest bearing or accruing.

(3) The securities shall be held in trust in the name of the office.

(4) Securities eligible are limited to:

(A) Certificates of deposit in an amount fully insured by the Federal Deposit Insurance Corporation issued by solvent banks or savings associations organized and existing under the laws of this state or under the laws of the United States;

(B) United States Government bonds, notes, and bills for which the full faith and credit of the United States Government is pledged for the payment of principal and interest; or

(C) Federal agency securities by an agency or instrumentality of the United States Government.

Authority. Arkansas Code §§ 23-115-207, 23-115-612.

23 CAR § 370-305. Change in application information.

(a) A license is valid only for the information contained in the application.

(b) Any change to the information submitted in the application including change of business name, change of location, change of ownership, or change of status of background check may make the license invalid.

Authority. Arkansas Code §§ 23-115-207, 23-115-612.

23 CAR § 370-306. Provisional license.

(a) A provisional license temporarily authorizes a lottery retailer to conduct the sale of tickets pending processing of the general license or application renewal.

(b)(1) The Director of the Office of the Arkansas Lottery may issue a provisional license to an applicant for a license after:

- (A) Receipt of a person's fully completed lottery retailer's application;
- (B) The authorization of a complete personal background check; and
- (C) Completion of a preliminary background check.

(2) The provisional license shall expire at the time of issuance of the license or forty-five (45) days from the date the provisional license is issued, whichever occurs first.

(3) The provisional license may be extended by the director for one (1) additional forty-five-day period of time.

(c)(1) If the ownership of an existing lottery retailer location changes, the director may issue a provisional license to the new owner.

(2) The provisional license shall expire seven (7) working days from the date of issuance if the director has not received the new owner's fully completed lottery retailer's application and authorization of a complete personal background check.

(3) If the required materials have been timely received by the director and a preliminary background check has been completed, the provisional license shall expire

at the time of issuance of the general license or forty-five (45) days from the date the provisional license is issued, whichever occurs first.

(d) EFT transfers.

(1) If the Office of the Arkansas Lottery enters into a temporary retailer contract with the applicant, the contract will require the applicant to pay the amount due the office from the sale of lottery tickets or shares by electronic funds transfer (EFT).

(2) In most instances, amounts due the office will be collected via EFT at the end of the fourth day after the close of the office business week.

(3) The applicant must establish an account for deposit of money from the sale of lottery games and shares with a financial institution that has the capability of making EFT draws.

(e) Termination. At the director's sole discretion, the director may immediately terminate a temporary retailer contract if the director determines that continuing to contract with the applicant is not in the best interest of the office including, but not limited to, when:

(1) The applicant provided false or misleading material information or the applicant made a material omission in the application for a retailer contract;

(2) The applicant is arrested or convicted of a felony during the term of the temporary retailer contract;

(3) An EFT payment is rejected for nonsufficient funds, or the applicant fails to provide timely information to the office regarding any change of the applicant's EFT bank account;

(4) Any other reason contained in the contract or this part that provides a basis for termination of a retailer contract; or

(5) When the director concludes that continuing to contract with the applicant may pose a threat to the fairness, honesty, integrity, or security of the office and its games.

Authority. Arkansas Code §§ 23-115-207, 23-115-612.

23 CAR § 370-307. Promotional license.

(a) The Director of the Office of the Arkansas Lottery may issue a promotional license for a marketing promotion for a period not exceeding ninety (90) days for lottery games.

(b) The director may establish financial and criminal history or other criteria for the issuance of a promotional license based on the duration of the promotion and the variety and quantity of tickets to be sold by the applicant.

(c) The director may waive any license fees or charges in issuing a promotional license and may establish procedures to streamline payments by promotional retailers to the Office of the Arkansas Lottery.

(d) Any retailer issued a promotional license must apply for and be issued a provisional/general license in order to continue to sell lottery tickets after the expiration of his or her promotional license.

Authority. Arkansas Code §§ 23-115-207, 23-115-612.

23 CAR § 370-308. Chain retailers.

(a) The Office of the Arkansas Lottery may treat more than one (1) retail location with identical owners as one (1) chain retailer.

(b) Each retail location shall be issued a separate retailer number or numbers and a unique retailer license.

(c) The Director of the Office of the Arkansas Lottery may issue one (1) billing statement for all retail locations or separate billing statements for each retail location.

(d) If the chain retailer wishes to add a new retail location, the chain retailer will not be required to undergo a new background investigation.

Authority. Arkansas Code §§ 23-115-207, 23-115-612.

23 CAR § 370-309. Retailer compensation.

A retailer shall receive commissions as compensation from the Office of the Arkansas Lottery as follows:

(1) Base instant and online games commission: five percent (5%) of each one dollar (\$1.00) sold;

(2) Cashing commission: one percent (1%) of each one dollar (\$1.00) redeemed, up to the cashing limit of five hundred dollars (\$500);

(3)(A) Selling commission: one percent (1%) of a prize amount of ten thousand dollars (\$10,000) or more on each ticket validated and paid to a player.

(B) The selling commission shall not exceed fifty thousand dollars (\$50,000); and

(4) Other commissions: up to ten percent (10%) on special games, as designated by the Director of the Office of the Arkansas Lottery.

Authority. Arkansas Code §§ 23-115-207, 23-115-612.

Subpart 4. Lottery Couriers

23 CAR § 370-401. Lottery couriers.

(a) In the sole discretion of the Director of the Office of the Arkansas Lottery, the Office of the Arkansas Lottery may authorize a duly licensed office retailer to enter a contract with a third-party (nonlottery licensed) entity for the purpose of delivering office draw game tickets to consumers via website or mobile application.

(b) Authorization shall require the Lottery Courier Addendum as an integrated term of conditions to the Retailer License Agreement.

(c) Retailer shall acknowledge that they have been provided with a copy of the office Operational Rules, 23 CAR pt. 371, which further set out the specific details, requirements, and limitations on the use of lottery couriers, as well as the additional terms and conditions set forth in the office Retailer License Agreement.

Authority. Arkansas Code §§ 23-115-207, 23-115-612.

Subpart 5. Retailer Duties and Responsibilities

23 CAR § 370-501. Generally.

- (a) This subpart contains duties to be performed by the retailer in addition to any duties and responsibilities that may be described in the retailer contract.
- (b) The duties herein are not meant to be exclusive.
- (c) Other duties and requirements for retailers may be contained elsewhere in this part or in the act.

Authority. Arkansas Code §§ 23-115-207, 23-115-612.

23 CAR § 370-502. Notices.

The retailer must notify the Office of the Arkansas Lottery if the following occurs:

- (1) As soon as practicable, but no later than ten (10) days of a material change in the qualifications of an applicant;
- (2) Immediately for loss, theft, or destruction of any lottery property including but not limited to:
 - (A) Instant tickets;
 - (B) Ticket dispensers; or
 - (C) Play terminals;
- (3) As soon as practicable, but no later than thirty (30) days prior to a change of ownership or responsible person;
- (4) As soon as practicable, but no later than ten (10) days prior to a change of sales location;
- (5) As soon as practicable, but no later than thirty (30) days prior if the type of business undergoes a substantial change;
- (6)(A) As soon as practicable, but no later than thirty (30) days prior to a change of business structure.

(B) A change of business structure shall mean the change from one (1) form of business organization to another, such as from sole proprietorship to partnership or corporation;

(7) As soon as practicable, but no later than ten (10) days prior to a change of bank account information; and

(8) Immediately upon receiving damaged or misprinted lottery tickets.

Authority. Arkansas Code §§ 23-115-207, 23-115-612.

23 CAR § 370-503. Games.

The retailer must perform the following duties as a condition of their license:

(1)(A) Stock equipment.

(B) Keep all lottery equipment on the retailer's premises stocked with a variety of tickets, play slips, computer-generated tickets, and any other Office of the Arkansas Lottery product required to be sold;

(2)(A) Perform minor maintenance.

(B) Replace ribbons, ticket stock, and clear paper jams as may be required for any of the equipment provided by the office for the sale of lottery games;

(3)(A) Maintain paper stock.

(B) Install and use only approved lottery paper stock which has been specifically assigned for the retailer when selling lottery games;

(4)(A) Sell games.

(B) Sell all lottery games offered by the office during the retailer's normal business hours;

(5)(A) Display.

(B) Retailer must display and maintain all point-of-sale material as well as any advertising material as requested by the office within the sales location;

(6)(A) Redeemed tickets.

(B) As directed by the office, deface all tickets redeemed for a prize; and

(7)(A) Prizes.

(B)(i) A retailer shall immediately pay a valid winning ticket upon presentment up to the required amount of five hundred dollars (\$500).

(ii) A payment may be made in cash or by check or money order, at the discretion of the retailer.

(iii) Payments are subject to the same NSF policies as payments to the office.

(iv)(a) In the event of exceptional circumstances, a retailer may delay payment of a cash slip for a period of time not to exceed twenty-four (24) hours from the time the player initially submits the cash slip to the retailer for payment.

(b) "Exceptional circumstances" means rare and unforeseen circumstances beyond the reasonable control of the retailer.

(C) Within forty-eight (48) hours from the time the player initially submitted the cash slip to the retailer for payment, the retailer must submit to the office a written report of the delay of payment and the exceptional circumstances that required the delay.

(D)(i) The Director of the Office of the Arkansas Lottery may review claims of exceptional circumstances and whether delayed payment was appropriate under the circumstances.

(ii) Upon the director's request, the retailer must provide the director with evidence supporting a claim of exceptional circumstances.

(iii) If a retailer fails to comply with a request or fails to adequately support a claim of exceptional circumstances, the director shall find that the delay was not appropriate and send a written notice to the retailer.

(E)(i) If the director finds that the delay was not appropriate, the retailer's delay of payment shall be considered a failure to perform contract duties or requirements, and the office may take appropriate action including termination of the retailer contract.

(ii) Any appeal of the director's decision must be conducted pursuant to 23 CAR § 370-701 et seq.

Authority. Arkansas Code §§ 23-115-207, 23-115-612.

Codification Notes. “NSF” means nonsufficient funds.

23 CAR § 370-504. Financial — Lottery proceeds.

(a) Fiduciary duty.

(1) All proceeds from the sale of tickets or shares constitute a trust fund until paid to the Office of the Arkansas Lottery either directly or through the office’s authorized representative.

(2) A retailer and officers of a retailer's business have a fiduciary duty to preserve and account for retail lottery proceeds, and retailers are personally liable for all lottery proceeds.

(3) Sales proceeds and unused instant tickets must be delivered to the office or its authorized collection representative upon demand.

(b) Deposits/accounts.

(1)(A) All retailers are required to place all lottery proceeds due to the office in accounts in institutions insured by the Federal Deposit Insurance Corporation not later than the close of the next banking day after the date of their collection by the retailer until the date they are paid to the office.

(B) At the time of the deposit, lottery proceeds are the property of the office.

(2) Retailers shall establish a single separate electronic funds transfer account for the purpose of:

- (A) Receiving moneys from ticket or share sales;
- (B) Making payments to the office; and
- (C) Receiving payments for the office.

(3)(A) Unless authorized in writing by the office, each retailer shall establish a separate bank account for lottery proceeds that shall be kept separate and apart from all other funds and assets and shall not be commingled with any other funds or assets.

(B) **Failure to comply.** If the office determines that a retailer failed to comply with subdivision (b)(1) of this section three (3) times within any consecutive twenty-four-month period, the office may pursue business closure against the retailer under 23 CAR § 370-801 et seq.

Authority. Arkansas Code §§ 23-115-207, 23-115-612.

Subpart 6. Retailer Prohibitions

23 CAR § 370-601. Sale of tickets of shares.

(a) Tickets and shares shall be sold only by the retailer at the location address stated on the retailer license issued by the Office of the Arkansas Lottery.

(b) Tickets may not be sold for more or less than the amount set by the office.

(c) Tickets may not be sold by an individual under eighteen (18) years of age.

(d)(1) Tickets may not be sold to any individual under eighteen (18) years of age.

(2) Any retailer who knowingly sells a lottery game or permits the playing of a lottery game to a person under eighteen (18) years of age is guilty of a violation under Arkansas Code § 23-115-901.

(e) Tickets or shares may not be sold after commencement of drawing for that particular lottery or after the end date of that game as announced by the Director of the Office of the Arkansas Lottery.

Authority. Arkansas Code §§ 23-115-207, 23-115-612.

23 CAR § 370-602. Prizes.

(a) A retailer may not charge a player to either play a lottery game, nor charge any fees or impose any requirements to redeem a valid winning ticket.

(b) A retailer must not pay to the winner a prize amount more than the prize established by the game.

Authority. Arkansas Code §§ 23-115-207, 23-115-612.

23 CAR § 370-603. Retailer conduct.

(a) A retailer may not exchange books, lottery tickets, or paper ticket stock with any other retailer.

(b) A retailer must sell tickets in book, page, or numerical order and may not play instant lottery tickets using any other method other than fair chance or any method that is contrary to the principle that every ticket has an equal and random chance of winning.

Authority. Arkansas Code §§ 23-115-207, 23-115-612.

23 CAR § 370-604. Inducements to play.

A retailer shall not induce persons to play lottery games by extending credit or by providing:

- (1) Financial assistance;
- (2) Alcohol; or
- (3) Any other compensation.

Authority. Arkansas Code §§ 23-115-207, 23-115-612.

23 CAR § 370-605. Trademark.

A retailer may not use the logo, trademark, or other advertising materials of the Office of the Arkansas Lottery without prior written permission or authorization of the office unless the materials have been provided to the retailer by the office.

Authority. Arkansas Code §§ 23-115-207, 23-115-612.

23 CAR § 370-606. False promises.

A retailer must not conduct false or misleading advertising in any form about the Office of the Arkansas Lottery or lottery games including but not limited to claiming the odds of winning a lottery game are different at the retailer's business than at any other retailer's business.

Authority. Arkansas Code §§ 23-115-207, 23-115-612.

23 CAR § 370-607. Contracting for goods or services.

A retailer shall not contract with any person other than the Office of the Arkansas Lottery for Arkansas Scholarship Lottery products or services except with the written approval of the office.

Authority. Arkansas Code §§ 23-115-207, 23-115-612.

23 CAR § 370-608. Gifts.

A retailer shall not provide a gift or compensation to:

- (1) The Director of the Office of the Arkansas Lottery;
- (2) An Office of the Arkansas Lottery member;
- (3) An office employee; or
- (4) The immediate family member of:
 - (A) The director;
 - (B) An office member; or
 - (C) An office employee.

Authority. Arkansas Code §§ 23-115-207, 23-115-612.

Subpart 7. Cancellation, Suspension, Revocation, Denial, or Termination

23 CAR § 370-701. Generally.

If upon approval of the Office of the Arkansas Lottery, the Director of the Office of the Arkansas Lottery or his or her designee determines that cancellation, denial, revocation, suspension, or rejection of renewal of a retailer license is in the best interest of the Arkansas Scholarship Lottery, the public welfare, or the State of Arkansas, the director or his or her designee may cancel, suspend, revoke, or terminate, after notice and a right to a hearing, a retailer license issued hereunder.

Authority. Arkansas Code §§ 23-115-207, 23-115-612.

23 CAR § 370-702. Temporary suspension.

The retailer license may be temporarily suspended by the Director of the Office of the Arkansas Lottery or his or her designee without prior notice pending a hearing.

Authority. Arkansas Code §§ 23-115-207, 23-115-612.

23 CAR § 370-703. Reasons.

A retailer license may be suspended, revoked, or terminated by the Director of the Office of the Arkansas Lottery or his or her designee for any one (1) or more of the following reasons:

- (1) Commission of a violation of the act or a rule of the Office of the Arkansas Lottery;
- (2) Failure to accurately or timely account for tickets, lottery games, revenues, or prizes as required by the office;
- (3) Commission of any fraud, deceit, or misrepresentation;
- (4) Insufficient sales;
- (5) Conduct prejudicial to public confidence in a lottery;
- (6) The retailer's filing for or being placed in bankruptcy or receivership;
- (7) Any material changes as determined in the sole discretion of the office in any matter considered by the office in executing the license with the retailer;
- (8) The closure of the retailer's business; or

(9) Failure to meet any of the objective criteria established by the office.

Authority. Arkansas Code §§ 23-115-207, 23-115-612.

23 CAR § 370-704. Removal of office material.

If a retailer fails to meet any of the objective criteria established by the Office of the Arkansas Lottery, the Director of the Office of the Arkansas Lottery or his or her designee may remove instant tickets, online ticket stock, and any and all property of the office from the retail location.

Authority. Arkansas Code §§ 23-115-207, 23-115-612.

23 CAR § 370-705. Administrative hearing.

(a) Any retailer or applicant aggrieved (aggrieved party) by an administrative decision by the Director of the Office of the Arkansas Lottery may appeal that decision.

(b) **Time for filing.** The aggrieved party must file a notice of appeal within twenty (20) days of the decision by sending a notice of appeal to both the director and the Office of the Arkansas Lottery staff attorney at the Office of the Arkansas Lottery main office.

(c) The director, or a hearing officer designated by him or her, shall have the exclusive authority to decide all appeals.

(d) After submittal of a timely appeal and prior to issuance of a written decision, the aggrieved party shall be afforded an opportunity to discuss with the director the issues giving rise to the appeal.

(e)(1) If the appeal is not resolved by mutual agreement, the director or hearing officer shall issue a written decision within thirty (30) calendar days after the appeal was filed.

(2) The decision shall include a statement of the director's or hearing officer's decision, with supporting rationale.

(3) If the director or hearing officer fails to issue a decision within this time limit, the aggrieved party may proceed as if the director or hearing officer had issued an adverse decision.

(f) The director or hearing officer shall furnish a copy of the decision to the aggrieved party by certified mail, return receipt requested, or by any other method that provides written evidence of delivery, such as:

- (1) Hand delivery by courier;
- (2) Express mail; or
- (3) Overnight express courier.

(g) In lieu of a written decision, the director may, in his or her sole discretion, within thirty (30) calendar days after the appeal is filed, give written notice to the aggrieved party that the protest shall be resolved by a hearing conducted by the director or hearing officer.

(h)(1) All hearings conducted under this section shall be conducted by the director or by a hearing officer designated by the director.

(2) The decision as to whether the director or a hearing officer will conduct the hearing shall be in the sole discretion of the director.

(3) The hearing officer's actions, decisions, and orders shall be deemed to be on behalf of the director and effective as though taken by the director, subject to the appeals procedures as hereinafter provided.

(i)(1) If the director determines under subsection (g) of this section that a hearing will be used to resolve an appeal, the hearing shall be held within thirty (30) calendar days following the director's determination.

(2) A notice which will set forth the time, date, and location of the hearing will be sent to the party or parties at least seven (7) calendar days before the date set for such hearing.

(j) In connection with the hearing, the director or hearing officer may:

(1) Conduct the hearing in an informal manner without formal rules of evidence or procedure;

(2) Require each party to state, either orally or in writing, its position concerning the factual and legal issues involved in the hearing;

(3) Require each party to produce for examination those relevant witnesses and documents under its control;

(4) Rule on motions and other procedural items pending before him or her, including without limitation the methods, scope, and extent of discovery available to the parties;

(5) Regulate the course of the hearing and conduct of the participants, including the imposition of reasonable time limits; and

(6) Establish time limits for submission of motions or memoranda.

(k)(1) The hearing shall be conducted before a court reporter.

(2) The aggrieved party shall procure, at his or her own cost and own initiative, the court reporting services (including the preparation of the transcript) for such hearing.

(3) The original transcript of any such proceedings shall be submitted to the director or hearing officer as soon as the transcript is available, and in no event later than thirty (30) calendar days following the conclusion of the hearing, and shall be made a part of the record.

(l) Any party may appear and be represented with or without counsel at the hearing.

(m)(1) If a hearing officer conducts the hearing, he or she shall make a written recommendation containing the hearing officer's ruling in the form of a proposed decision to the director within thirty (30) calendar days after receiving an original transcript of the hearing.

(2) If a proposed decision is received by the director, he or she must render a decision in writing and deliver the decision to the parties within thirty (30) calendar days after receiving the proposed decision from the hearing officer.

(n) If the director receives a recommendation in a proposed decision from a hearing officer, he or she may:

(1) Accept, modify, or reject the hearing officer's recommendation in whole or in part;

(2) Return the matter to the hearing officer with instruction;

(3) Make any other appropriate disposition; or

(4) Issue a "no action" response.

(o) If the director issues a "no action" response, then the determination in the proposed decision of the hearing officer will be deemed to be accepted by the director.

(p)(1) If the director conducts the hearing, a decision must be rendered and delivered to the petitioner within thirty (30) calendar days after receiving the original transcript of the hearing.

(2) The decision or any proposed decision made by either a hearing officer or the director shall be sent to the aggrieved party by certified mail, return receipt requested, or any other method by which a written business record of delivery is kept, such as:

(A) Hand delivery;

(B) Express mail; or

(C) Overnight carrier.

(q) A party aggrieved by a decision of the Office of the Arkansas Lottery may appeal that decision to the Pulaski County Circuit Court.

(r) The circuit court shall hear appeals from administrative orders of the Office of the Arkansas Lottery, based upon the record of the proceedings before the Office of the Arkansas Lottery, may reverse the administrative order of the Office of the Arkansas Lottery only if the person appealing the administrative order proves the administrative order to be:

(1) Clearly erroneous;

(2) Procured by fraud;

(3) A result of substantial misconduct by the Office of the Arkansas Lottery; or

(4) Contrary to:

(A) The United States Constitution;

(B) The Arkansas Constitution; or

(C) This part.

(s) The circuit court may remand an appeal to the Office of the Arkansas Lottery to conduct further hearings.

(t) If upon the motion of the Office of the Arkansas Lottery the circuit court finds the appeal to have been frivolous, the costs of appeal and defense shall include without limitation the following expenses of the office resulting from institution of the appeal:

- (1) Court costs;
- (2) Bond;
- (3) Legal fees; and
- (4) Loss of income.

(u) An appeal may be made from the circuit court to the appropriate appellate court, as provided by law.

(v) This section provides the exclusive procedure for a retailer or applicant appealing an administrative decision of the director.

Authority. Arkansas Code §§ 23-115-207, 23-115-612.

Subpart 8. Business Closure — Authority — Notice

23 CAR § 370-801. Business closure.

(a) Arkansas Code § 23-115-607 authorizes the Director of the Office of the Arkansas Lottery to close the business of a retailer if the retailer fails to comply with Arkansas Code § 23-115-605(b) and 23 CAR § 370-804(e) three (3) times within any consecutive twenty-four-month period.

(b)(1) The director shall give notice to the retailer that the third delinquency in complying with 23 CAR § 370-804(e) may result in the closure of the business.

(2) The notice shall be in writing and delivered to the retailer by either United States Postal Service or hand delivery.

(c) If the director determines that the business will be closed, the director shall notify the retailer by certified mail or hand delivery that the business will be closed within five (5) business days from the date of receipt of the notice.

Authority. Arkansas Code §§ 23-115-207, 23-115-612.

23 CAR § 370-802. Avoiding closure.

A retailer may avoid closure of the business by:

- (1) Remitting the delinquent lottery proceeds; or
- (2) Entering into a written payment agreement approved by the Director of the Office of the Arkansas Lottery to satisfy the lottery proceeds delinquency.

Authority. Arkansas Code §§ 23-115-207, 23-115-612.

23 CAR § 370-803. Administrative hearing.

(a) A retailer may request an administrative hearing concerning the decision of the Director of the Office of the Arkansas Lottery to close the retailer's business.

(b) Within five (5) business days after the delivery or attempted delivery of the notice required by 23 CAR § 370-801(b), the retailer may file a written protest, signed by the retailer or his or her authorized agent, with the director stating the reasons for opposing the closure of the business and requesting an administrative hearing.

(c) A retailer may request that an administrative hearing be held:

- (1) In person;
- (2) By telephone;
- (3) Upon written documents furnished by the retailer; or
- (4) Upon written documents and any evidence to be produced by the retailer at an administrative hearing.

(d) The director may determine whether an administrative hearing at which testimony is to be presented will be conducted in person or by telephone.

(e) A retailer who requests an administrative hearing based upon written documents is not entitled to any other administrative hearing before the rendering of the administrative decision.

(f)(1) The administrative hearing shall be conducted by a hearing officer appointed by the director.

(2) The hearing officer shall set the time and place for a hearing and give the retailer notice of the hearing.

(g) At the administrative hearing, the retailer may be represented by an authorized representative and present evidence in support of his or her position.

(h) The administrative hearing shall be held within fourteen (14) calendar days of receipt by the director of the request for hearing.

(i) The administrative hearing and determinations made by the hearing officer under this section are subject to the Arkansas Administrative Procedure Act, Arkansas Code § 25-15-201 et seq.

(j) The defense or defenses to the closure of a business under this section are:

(1) Written proof that the retailer remitted the delinquent lottery proceeds due; or

(2) That the retailer has entered into a written payment agreement approved by the director to satisfy the lottery proceeds delinquency.

(k) The decision of the hearing officer shall be in writing with copies delivered to the retailer and the director by the United States Postal Service or by hand delivery.

Authority. Arkansas Code §§ 23-115-207, 23-115-612.

23 CAR § 370-804. Judicial relief.

(a) If the decision of the hearing officer under this subpart is to affirm the closure of the business, the decision shall be submitted in writing and delivered by the United States Postal Service or by hand to the retailer.

(b) The retailer may seek judicial relief from the decision by filing suit within twenty (20) calendar days of the date of the decision.

(c)(1) Jurisdiction for a suit under this section to contest a determination of the Director of the Office of the Arkansas Lottery shall be in Pulaski County Circuit Court, where the matter shall be tried de novo.

(2) If the circuit court finds that the business closure order was appropriately issued by the director, the circuit court shall issue an injunction against the retailer prohibiting the further operation of the business.

(3) If a business subject to an injunction issued by the circuit court as provided in this section continues in operation, upon conviction, any person responsible for the decision to operate the business after the issuance of the injunction shall be guilty of a Class A misdemeanor.

(d) An appeal may be made from the circuit court to the appropriate appellate court, as provided by law.

(e) The procedures established by this section are the sole methods for seeking relief from a written decision to close the business of a retailer for failure to comply with Arkansas Code § 23-115-605(b) and 23 CAR § 370-504.

(f) The decision to close the business of a retailer shall be final either:

(1) If the retailer fails to request an administrative hearing under 23 CAR § 370-803 or fails to seek judicial relief under this section; or

(2) Upon the final decision of a circuit court or an appellate court.

(g) It is unlawful for a business to continue in operation after a business closure order is issued that is upheld on appeal under this section or not appealed by the retailer under subsection (d) of this section.

(h) Upon conviction, any person responsible for the decision to operate the business in violation of this subpart shall be guilty of a Class A misdemeanor.

Authority. Arkansas Code §§ 23-115-207, 23-115-612.

23 CAR § 370-805. Procedure for closure.

(a) If a retailer fails to timely seek administrative or judicial review of a business closure decision or if the business closure decision is affirmed after administrative or

judicial review, the Director of the Office of the Arkansas Lottery shall direct the Department of Finance and Administration to affix a written notice to all entrances of the business that:

- (1) Identifies the business as being subject to a business closure order; and
- (2) States that the business is prohibited from further operation.

(b) The director may also direct that the business be locked or otherwise secured so that it may not be operated.

Authority. Arkansas Code §§ 23-115-207, 23-115-612.

23 CAR § 370-806. Revocation and suspension of business license.

(a) The closure of a business under this subpart shall be grounds for the suspension or revocation of any business license granted under the laws of the State of Arkansas, excluding professional licenses.

(b) After the decision to close the retailer's business becomes final, the Director of the Office of the Arkansas Lottery shall contact the appropriate administrative body responsible for granting licenses to operate the business and report the closure of the business.

Authority. Arkansas Code §§ 23-115-207, 23-115-612.