

SUBSTANTIVE POLICY STATEMENT

This Substantive Policy statement is advisory only. A substantive policy statement does not include internal procedural documents that only affect the internal procedures of the agency and does not impose additional requirements or penalties on regulated parties or include confidential information or rules made in accordance with the Arizona Administrative Procedure Act. If you believe that this substantive policy statement does impose additional requirements or penalties on regulated parties, you may petition the agency under Arizona Revised Statutes section 41-1033 for a review of the statement.

FINANCIAL ASSURANCE DISCRETIONARY WAIVER

Arizona Lottery
Executive Director: Gregory R. Edgar
Information: (480) 921-4431
Policy No. 90
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PURPOSE

This policy documents the authority of the Arizona State Lottery (Lottery) to waive Lottery Retailer Financial Assurance requirements on an applicant-by applicant basis if sufficient information or internal Lottery processes exist to minimize potential losses from a retailer in arrears.

INTRODUCTION

Arizona Revised Statute (A.R.S.) §5-562 (A) requires the Arizona Lottery Executive Director to evaluate the “financial responsibility and security” of an applicant. Currently, Title 19, Chapter 5, Article 3 of the Arizona Administrative Code (A.A.C.) outlines the process of this evaluation as:

R19-3-202(1)(g) - Evidence the applicant for a license other than an instant tab license or charitable organization license is financially solvent. The evidence may include either of the following:

- i. Evidence the applicant has established business credit, has a record of meeting its business debts as they became due for the three years immediately preceding the date of application, and does not have outstanding legal actions, judgments, or tax liens; or*
- ii. Personal guarantee, in writing, of applicant’s Lottery account signed by a guarantor and the guarantor’s spouse, if community property is being used to guarantee the account, or by the guarantor only, if guarantor provides proof that the guarantee is based on sole and separate property.*

In accordance with Governor Ducey’s regulatory reduction, Lottery is reevaluating the necessity of a guarantee or guarantor for all applicant that do not meet R19-3-202(1)(g)(i). The intent of R19-3-202(1)(g)(i) is minimize the events in which a retailer generates a large amount of debt to the Lottery by requesting tickets and not paying for them during the weekly account sweep due to insufficient funds in the account. Upgrades in the Lottery’s back office accounting system and improved retailer invoicing processes have provided additional process controls for the Lottery to better manage retailers individually once they are in operation. This enhanced management ability reduces the need to invest so heavily in upfront financial assurance requirements.

POLICY

As part of a larger program to ease the regulatory burden to applicants and licensed retailers, if an applicant does not have sufficient or acceptable business credit, the Lottery Consumer Protection & Investigations and Licensing Teams will evaluate an applicant's potential for insolvency by a review of the evidence on the whole, which may include one or more of the following:

- The type and location of the applicant business;
- Financial relationship and any outstanding debt owed to the state of Arizona, any of its political subdivisions, or the United States government;
- Poor business credit history versus no business credit history;
- Poor personal credit history versus personal credit history;
- The history of payment to the Lottery if it's a renewal
- Any other credible information available regarding an applicant's likelihood to pay their debts to the Lottery.

RESPONSIBILITY

Responsibility for this policy lies with the Accounting, Licensing, and Security Managers.

PROCEDURES

Licensing

If an applicant's credit check reveals the applicant has insufficient or poor credit, the Licensing and Security Teams will evaluate all financial information on the applicant as a whole and determine the likely risk of default.

- Low to no risk –no additional actions
- Moderate risk – present the applicant with the option to “auto settle” any instant scratch-off tickets by purchasing the tickets immediately when they are delivered to the store
- High risk – require the applicant to auto settle.

Billing

In addition to the above actions, for all licensed retailers, accounting will provide close review of retailer accounts and any retailers who have insufficient funds for a weekly sweep will be subject to the following actions:

- 1) First notice of insufficient funds (NSF) – Notify retailer with a phone call and email.
- 2) Second **consecutive** NSF - Notify retailer with a phone call and email; deactivate terminal.
- 3) Third **consecutive** NSF – Send 10-day payment demand letter

- a) Notify Sales to pick up tickets and put on auto-settle
- b) Rebill and put retailer on manual payment status
- 4) If 10-day period expires without payment, notify Licensing to begin revocation
- 5) After 30-day appeal period for revocation – Send second retailer letter notifying of pending AG referral
 - a) Prepare materials and send account to AG within 7 days
 - b) Enter adjustment in BOTS - “Transfer to AG”

APPROVED BY:



Gregory R. Edgar, Executive Director Arizona Lottery