

**WEST VIRGINIA  
SECRETARY OF STATE  
NATALIE E. TENNANT  
ADMINISTRATIVE LAW DIVISION**

Form #7

Do Not Mark In This Box  
Filing Date

FILED

2009 JUL 27 PM 3:06

OFFICE WEST VIRGINIA  
SECRETARY OF STATE

Effective Date

**NOTICE OF AN EMERGENCY RULE**

AGENCY: State Lottery Commission TITLE NUMBER: 179

CITE AUTHORITY: W.Va. Code 29-25-5

EMERGENCY AMENDMENT TO AN EXISTING RULE: YES  NO

IF YES, SERIES NUMBER OF RULE BEING AMENDED: 4

TITLE OF RULE BEING AMENDED: Limited Gaming Facility Rule

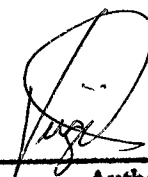
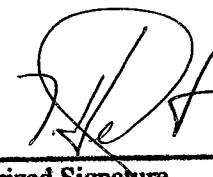
IF NO, SERIES NUMBER OF RULE BEING PROPOSED: \_\_\_\_\_

TITLE OF RULE BEING PROPOSED: \_\_\_\_\_

THE ABOVE RULE IS BEING FILED AS AN EMERGENCY RULE TO BECOME EFFECTIVE AFTER APPROVAL BY SECRETARY OF STATE OR 42ND DAY AFTER FILING, WHICHEVER OCCURS FIRST.

**THE FACTS AND CIRCUMSTANCES CONSTITUTING THE EMERGENCY ARE AS FOLLOWS:**

The 2009 Regular Session of the W.Va. Legislature passed legislation that drastically changed W.Va. Code 29-25-1 et seq. The newly re-enacted Article 25, Chapter 29 permits that "[a]ny legislative rule proposed by the [lottery] commission before September 1, 2009, may be by emergency rule." Without effecting emergency rules for the Limited Gaming Facility Rule, then the Lottery will have to struggle with a substantial disconnect between the Act and the rules.

   
Authorized Signature

Use additional sheets if necessary



**EMERGENCY RULE QUESTIONNAIRE**

DATE: July 27, 2009

TO: LEGISLATIVE RULE-MAKING REVIEW COMMITTEE

FROM: (Agency Name, Address & Phone No.) State Lottery Commission  
P.O. Box 2067  
Charleston, West Virginia 25327-2067

EMERGENCY RULE TITLE: Limited Gaming Facility

1. Date of filing July 27, 2009

2. Statutory authority for promulgating emergency rule:  
W.Va. Code 29-25-5

3. Date of filing of proposed legislative rule: July 27, 2009

4. Does the emergency rule adopt new language or does it amend or appeal a current legislative rule? The emergency rule amends current legislative rule, and adopts new language.

5. Has the same or similar emergency rule previously been filed and expired?  
Prior to the 2009 Regular Session, W.Va. 29-25-5 had authorized emergency rule before September 1, 1999, and such rule was filed in accordance.

6. State, with particularity, those facts and circumstances which make the emergency rule necessary for the **immediate** preservation of public peace, health, safety or welfare.  
See Attached.

7. **If the emergency rule was promulgated in order to comply with a time limit established by the Code or federal statute or regulation, cite the Code provision, federal statute or regulation and time limit established therein.**

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2009 Regular Session amended to W.Va. Code 29-25-5 to authorize legislative rules  
filed by September 1, 2009 to be emergency rules.

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8. **State, with particularity, those facts and circumstances which make the emergency rule necessary to prevent substantial harm to the public interest.**

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See Attached.

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## **ATTACHMENTS FOR “EMERGENCY RULE QUESTIONNAIRE”**

### **Question #6.**

The 2009 Regular Session of the West Virginia Legislature repealed, added, or amended and re-enacted most sections in Article 25, Chapter 29, which controls the licensing, regulation, and oversight of one limited gaming facility at one historic resort hotel. Since the voters of Greenbrier County have voted to permit a gaming facility in its county, it is possible that a limited gaming facility license may be granted. Given the drastic changes made to W. Va. Code 29-25-1 et seq., there will be a substantial disconnect between the newly amended Act and the rules unless the rules are immediately changed. The purpose of the proposed emergency rule and the identical legislative rule is to ensure consistency between the Act and the rule, so as to better regulate the limited gaming facility and all licensees associated with it.

### **Question #8.**

The significant changes made by the 2009 Regular Session of the Legislature to Article 25 of Chapter 29 has left a substantial number of inconsistencies between the Act and the rule. Further, the Act states that legislative intent is to bring parity between the Limited Gaming Facility Act (1999) and the W.Va. Table Games Act (2007). Without amending the rules, there will be a large chasm between the Act, the Legislature's intent, and the rules. The Legislature made the bill effective from passage, and an eligible entity has stepped forward prepared to be licensed as a limited gaming facility. Without emergency rules, the entity will be subjected to an Act and a set of rules that are wholly incongruent with one another.

Contact Information: Kate Casto  
West Virginia Lottery, General Counsel  
304-558-0500 ext. 354  
[kcasto@wvlottery.com](mailto:kcasto@wvlottery.com)

*Emergency Rule*  
**WEST VIRGINIA  
LEGISLATIVE RULE  
WEST VIRGINIA LOTTERY  
TITLE 179  
SERIES 4  
2010**

**LIMITED GAMING FACILITY LOTTERY RULES**

**A BRIEF SUMMARY of the PROPOSED RULE:**

The Regular Session of the 2009 West Virginia Legislature amended W.Va. Code §§29-25-1 et seq. authorizing one casino to be licensed at one historic resort hotel. News media called the legislation "The Greenbrier Casino Act." Regulation and oversight of the casino is delegated to the State Lottery Commission. In addition to certain Monte Carlo-style games, the licensee is permitted to participate in video lottery games as authorized by Articles 25 and 22A, Chapter 29 of the West Virginia Code.

The agency-approved rule provides for licensing of one limited gaming facility operator, and also for the licensing of gaming suppliers, management services providers, and gaming employees of the limited gaming facility licensee.

The agency-approved rule provides for the conduct of casino and video lottery games at the limited gaming facility.

The agency-approved rule deals with the limitation of persons who may wager at this casino and video lottery games on any given day.

The agency-approved rule provides for internal control procedures and accounting and record-keeping function of the limited gaming facility.

The agency-approved rule provides for security and surveillance devices and procedures.

The agency-approved rule outlines the occasions when the limited gaming facility can extend credit to players at the casino.

The agency-approved rule provides for exclusion of person from the limited gaming facility.

The agency-approved rule provides for patron dispute resolutions procedures.

EMERGENCY RULES  
WEST VIRGINIA LEGISLATIVE REGULATIONS  
WEST VIRGINIA LOTTERY  
TITLE 179  
SERIES 4 – Amended  
2010

A STATEMENT of CIRCUMSTANCES WHICH REQUIRE THIS RULE:

The 1999 Regular Session enacted Senate Bill 380 authorizing an historic resort hotel to operate a casino regulated by the West Virginia Lottery Commission. The 2009 Regular Session amended Article 25, Chapter 29 in Senate Bill 575 to make it more compatible with Article 22C, Chapter 29 concerning racetrack table games. Section 5 [W.Va. Code, §29-25-5] requires the West Virginia Lottery Commission to propose a legislative rule to provide implementation and enforcement of amended Article 25, and allows that if those legislative rules are submitted prior to September 1, 2009, then they are to be emergency rules. Senate Bill 575 was effective from passage, and as such is applicable West Virginia law. It is important that the legislative rules that correspond with the Act actually are consistent with it, otherwise the entities and persons to be licensed under the Act will be adversely affected by a severe disconnect between the applicable Act and the applicable rules. Since licensure is possible now, it is necessary that the rules and the Act be consistent now.

APPENDIX B

**FISCAL NOTE FOR PROPOSED RULES**

Rule Title: Limited Gaming Facility Rule

Type of Rule:  Legislative  Interpretive  Procedural

Agency: State Lottery Commission

Address: P.O. Box 2067  
Charleston, West Virginia 25327-2067

Phone Number: 304-558-0500 ext. 354 Email: kcasto@wvlottery.com

**Fiscal Note Summary**

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

In 1999, the Legislature enacted new article 22-25 that allowed a casino in one historic resort hotel. This was referred to by many as the "Greenbrier Casino Act." In 2000, the voters of Greenbrier County defeated the required local referendum, and there has not been casino gambling at the Greenbrier Hotel or elsewhere except for racetracks whose gaming is permitted under a different Act. In 2007, the Legislature permitted table gaming at racetracks, and new rules were enacted. In 2008, members of the Greenbrier Hotel's nine labor unions persuaded the Greenbrier County Commission to place the referendum on the 2008 general election ballot, and this time the measure was approved by voters. In the 2009 Regular Session, the 1999 statute was amended to be more like the 2007 table gaming law for racetracks. This amended rule conforms to the 2009 revisions of the "Greenbrier" statute.

**Fiscal Note Detail**

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

<b>FISCAL YEAR</b>			
Effect of Proposal	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
<b>1. Estimated Total Cost</b>	0.00		1,027,128.00
Personal Services	0.00		563,276.00
Current Expenses	0.00		152,752.00
Repairs & Alterations	0.00		0.00
Assets	0.00		51,100.00
Other	0.00		260,000.00
<b>2. Estimated Total Revenues</b>	0.00		6,847,520.00

Rule Title: \_\_\_\_\_

Rule Title: Limited Gaming Facility Rule

**3. Explanation of above estimates (including long-range effect):**

Please include any increase or decrease in fees in your estimated total revenues.

The estimated costs are based on personal services, benefits and administrative costs to operate the gaming facility at The Greenbrier.

The Lottery has based its estimates on 15 additional positions that will be added to support the operation. The positions will include

- 12 security investigators,
- 2 accountants and
- 1 administrative personnel.

The current expenses would include office supplies, security uniforms, cell phones, vehicle lease, gasoline, maintenance necessary to operate on a daily basis.

Assets are the purchase of computers, printers, copiers, software, furniture and fixtures.

Other expenses are for a contract established with a firm to assist with the initial setup of the gaming facility.

**MEMORANDUM**

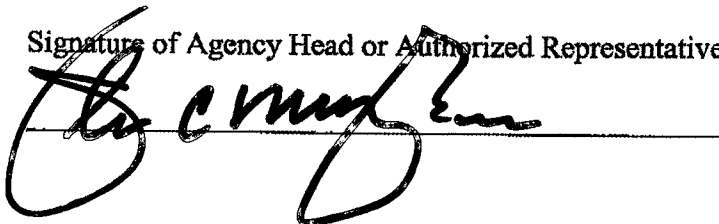
Please identify any areas of vagueness, technical defects, reasons the proposed rule would not have a fiscal impact, and/or any special issues not captured elsewhere on this form.

There is a provision in the new law allowing tax-free promotional credits to be issued to potential video lottery customers, and it is clear that the measure was meant to apply to the Greenbrier licensee and to the racetrack casino operations as well [but not to limited video lottery customers].

In rule section 38, the State Lottery Commission acknowledges that code section 29-25-15 should have been repealed by SB 575 but was not. Section 38 attempts to resolve a potential conflict of laws situations regarding annual licensing vs. five-year licensing, as well as applicable licensing fees.

Date: July 24, 2009

Signature of Agency Head or Authorized Representative



**WEST VIRGINIA LEGISLATIVE RULE  
WEST VIRGINIA LOTTERY  
TITLE 179  
SERIES 4**

FILED  
2009 JUL 27 PM 3:06  
OFFICE WEST VIRGINIA  
SECRETARY OF STATE

**LIMITED GAMING FACILITY RULE**

**§179-4-1. General.**

1.1. Scope and Purpose. - The purpose of this rule is to license and regulate one limited gaming facility located within an historic resort hotel and licensed by the West Virginia Lottery, license gaming suppliers and facility employees, and define and regulate the operation of Monte Carlo-style games and video lottery games at the limited gaming facility.

1.2. Authority. -- W. Va. Code §29-25-5.

1.3. Filing Date. --

1.4. Effective Date. --

**PART 1. DEFINITIONS**

**§179-4-2. Definitions.**

For the purposes of this rule the following words and phrases have the meaning ascribed to them in this Section unless the context of the rule clearly indicates otherwise, or unless inconsistent with the manifest intention of the State Lottery Commission.

2.1. "Act" means the Limited Gaming Facility Act, W. Va. Code §29-25-1 et seq.

2.2. "Adjusted gross receipts" means the dollar amount that is won by the limited gaming facility licensee through play at live authorized games of chance, which is the total of United State currency, chips, front money or markers contained in the drop box, plus ending chip inventory, minus opening chip inventory, plus chip credits minus table fills, minus match play coupons.

~~2.2.2.3.~~ "Agency" and "Lottery" mean the West Virginia State Lottery, its Director and the West Virginia State Lottery Commission and its Commissioners which operate and administer the West Virginia State Lottery, pursuant to authority granted under the Act and under the state lottery act, W. Va. Code §29-22-1 et seq.

~~2.3.2.4.~~ "Application" means all materials and information comprising the applicant's request for the limited gaming facility license, supplier's license, or occupational license

submitted by the applicant to the Commission, including, but not limited to, the instructions, forms, and other documents required by the Commission for purposes of application for a license under the Act and this rule.

2.4.2.5. "Associated equipment" means any of the following:

2.4.a.2.5.a. Any equipment which is a mechanical, electromechanical, or electronic contrivance, component, or machine and which is used indirectly or directly in connection with gaming;

2.4.b.2.5.b. Any equipment that would not otherwise be classified as a gaming device, including, but not limited to, links, modems, and dedicated telecommunication lines, that connects to progressive ~~electronic gaming devices~~ video lottery terminals;

2.4.c.2.5.c. Computerized systems that monitor ~~electronic gaming devices~~ video lottery terminals, table games, and other gambling games approved by the Commission;

2.4.d.2.5.d. Equipment that affects the proper reporting of gross receipts;

2.4.e.2.5.e. Devices for weighing and counting money; and

2.4.f.2.5.f. Any other equipment that the Commission determines requires approval as associated equipment to protect the integrity of gaming and ensure compliance with the Act and this rule.

2.5.2.6 "Attributed interest" means any direct or indirect interest in a business entity determined by the Commission to be held by an individual through holdings of the individual's immediate family or other persons and not through the individual's actual holdings.

2.6.2.7 "Bill changer" means an electromechanical device attached either on or into ~~an electronic gaming device~~ a video lottery terminal for the purpose of dispensing an amount of tokens or credits equal to the amount of cash or cash equivalency inserted into the bill changer. The bill changer shall accept and analyze the legitimacy of United States or foreign currency accepted by the bill changer. If a credit is issued, then the player shall have the option of taking the entire amount of credits in tokens or utilizing any portion of the registered credits to activate the ~~electronic gaming devices~~ video lottery terminals as a wager.

2.8. "Cage" and "cage area" means a secure work area within the casino for cashiers and a storage area for the casino's working fund of cash and gaming chips; it also serves as a depository control for gaming credit instruments.

2.7.2.9. "Cash" means United States currency and coin or foreign currency and coin that has been exchanged for its equivalent United States currency and coin value.

2.8.2.10. "Cash equivalent" means an asset, other than recognized credit cards or credit extended by the limited gaming facility licensee, that is readily convertible to cash. All

instruments that constitute a cash equivalent shall be made payable to the limited gaming facility licensee, bearer, or cash. If an instrument is made payable to a third party, the instrument shall not be considered a cash equivalent. Cash equivalent instruments include, but are not limited to, any of the following:

~~2.8.a.2.10.a.~~ Travelers checks;

~~2.8.b.2.10.b.~~ Certified checks, cashier's checks, and money orders;

~~2.8.c.2.10.c.~~ Personal checks or drafts;

~~2.8.d.2.10.d.~~ Credit extended by the limited gaming facility licensee, a recognized credit card company, or banking institution; and

~~2.8.e.2.10.e.~~ Any other instrument that the Commission considers a cash equivalent.

2.11. "Casino" means a facility licensed by the Commission to offer to the public both video lottery games and West Virginia Lottery table games under W.Va. Code §29-25-1 *et seq.*

~~2.9.2.12.~~ "Casino operations" means operations of the limited gaming facility other than gambling operations, including the purveying of food, beverages, and retail goods and services in the gaming area of the historic hotel.

~~2.10.2.13.~~ "Casino surveillance room" means a room or rooms at the limited gaming facility for monitoring and recording casino operations and gambling operations by the limited gaming facility licensee.

~~2.11.2.14.~~ "Chip" means a representation of small disk issued by the limited gaming facility licensee representing a set value that is used for making wagers at authorized games of chance and is redeemable for only cash only issued by the limited gaming facility licensee for use in gaming, other than in video lottery terminals, the limited gaming facility licensee's check or in redemption of a marker.

~~2.12.2.15.~~ "Commission" or "State Lottery Commission" means the State Lottery Commission created by the State Lottery Act, W. Va. Code §29-22-1 *et seq.* In context, "Commission" may also mean the state lottery office.

~~2.13.2.16.~~ "Complaint form" means the form, prescribed by the Commission, that a patron shall complete and submit to file a patron complaint.

~~2.14.~~ "Contest" means a gambling game which is offered and sponsored by a gambling operation in which patrons of the gambling operation are assessed an entry fee to play the game or games and in which winning patrons receive a portion of or all of the entry fees that may be increased with cash and non-cash prizes from the gambling operation.

~~2.15.2.17.~~ "Counterfeit chips or tokens" means chip-like or token-like objects that have not been approved under this rule, including objects commonly referred to as slugs, but not including legal coins of the United States or any other nation.

~~2.16.2.18.~~ "Count room" means the room or rooms designated for the counting, wrapping, and recording of the limited gaming facility licensee's gaming receipts.

~~2.17.2.19.~~ "Dependent" means any individual who received over 1/2 of his or her support in a calendar year from any other individual.

2.20. "Designated gaming area" means one or more specific floor areas of the limited gaming facility within which the commission has authorized operation of video lottery terminals or authorized games of chance, or the operation of both video lottery terminals and authorized games of chance.

~~2.18.2.21.~~ "Director" means the individual appointed by the Governor to provide management and administration necessary to direct the Lottery office or any other person to whom the Director's authority is lawfully delegated.

~~2.19.2.22.~~ "Drop" means the total amount of tokens removed from the drop bucket of ~~an electronic gaming device~~ a video lottery terminal, the currency removed from the bill changers, and the dollar amount of the currency, coins, chips, tokens, or credits removed from the live gaming devices. If a patron is utilizing an electronic card, then the drop includes the amount deducted from a patron's account as a result of ~~electronic gaming device~~ video lottery terminal play.

~~2.20.2.23.~~ "Drop box" means the box attached to a live gaming device table that is used to collect, but is not limited to, any of the following items:

~~2.20.a.2.23.a.~~ Currency;

~~2.20.b.2.23.b.~~ Coin;

~~2.20.c.2.23.c.~~ Chips;

~~2.20.d.2.23.d.~~ Cash equivalents;

~~2.20.e.2.23.e.~~ Damaged chips;

~~2.20.f.2.23.f.~~ Documents verifying the extension of credit;

~~2.20.g.2.23.g.~~ Request for fill and credit forms;

~~2.20.h.2.23.h.~~ Fill and credit slips;

~~2.20.i.2.23.i.~~ Error notification slips;

~~2.20.j-2.23.j.~~ Table inventory forms; and

~~2.20.k-2.23.k.~~ All other forms used by the limited gaming facility licensee and deposited in the drop box as part of the audit trail.

~~2.21-2.24.~~ "Drop bucket" means the container in the locked portion of an ~~electronic gaming device a video lottery terminal~~ or the cabinet of an ~~electronic gaming device a video lottery terminal~~ that is used to collect the tokens retained by the ~~electronic gaming device video lottery terminal~~ which are not used to make automatic payments from the ~~electronic gaming device video lottery terminal~~ and which are subject to authorized removal.

~~2.22-2.25.~~ "Electronic card" means a card or voucher purchased from, or provided by, the limited gaming facility licensee for use at the licensee's casino as a substitute for tokens for the conduct of gaming on a video lottery terminal.

~~2.23.~~ "~~Electronic gaming device~~" means a video lottery terminal as that device is defined by the ~~West Virginia Racetrack Video Lottery Act, W. Va. Code §29-22A-1 et seq.~~

~~2.24.~~ "~~Electronic gaming device drop~~" means the total value of tokens contained in the drop bucket and the currency collected from bill changers. If a patron is utilizing an electronic card, then the drop includes the amount deducted from a patron's account as a result of electronic gaming device play.

~~2.25-2.26.~~ "Excluded person" means a person whose name appears on an exclusion list of any jurisdiction, or a person whose name does not appear on an exclusion list, but who is excluded or ejected as a result of meeting one or more of the exclusion criteria specified in this rule.

~~2.26-2.27.~~ "Exclusion list" means a list or lists that contain identities of persons who are to be excluded or ejected from any gambling operation in any jurisdiction.

~~2.27.~~ "~~Felony~~" means a criminal offense for which a sentence of imprisonment for more than one year may be imposed under the laws of any jurisdiction.

2.28. "Financial statement" means any of the following:

2.28.a. A balance sheet;

2.28.b. An income statement;

2.28.c. A profit and loss statement;

2.28.d. A statement of cash flow; or

2.28.e. A sources and uses of funds statement.

2.29. "Front money" means a patron deposit of value made by a patron at the cage that is used in lieu of credit to guarantee payment of a marker issued or to establish a line of credit for wagering purposes.

2.30. "Game" means any individual or particular type of casino game authorized by the West Virginia State Lottery Commission.

2.31. "Gaming area" means the room or rooms in the limited gaming facility in which gaming is conducted.

2.32. "Gaming day" means the twenty-four hour period that begins at 7:00:00 a.m. and concludes at 6:59:59 a.m.

~~2.32-2.33.~~ "Gaming equipment or supplies" means layouts for live table games; any representatives of value, including, without limitation, chips, tokens, or electronic debit cards and related hardware and software that do not affect the result of a game; or a machine, mechanism, device, or implement that affects the result of a gambling game by determining a win or loss, including, without limitation, any of the following:

~~2.32.a-2.33.a.~~ Electronic gaming devices Video lottery terminals;

~~2.32.b-2.33.b.~~ Software;

~~2.32.c-2.33.c.~~ Cards; and

~~2.32.d-2.33.d.~~ Dice.

~~2.33. "Gaming operations manager" means a person who has the ultimate responsibility to manage, direct, or administer the conduct of the gambling operation in the limited gaming facility.~~

2.34. "Hearing officer" means the Commission member, the Director or the administrative hearing officer designated by the Director to conduct or assist the Commission in the conduct of a hearing on any matter within the jurisdiction of the Commission.

2.35. "Historic resort hotel" means a resort hotel registered with the United States department of the interior as a national historic landmark in its national registry of historic places having not fewer than five hundred guest rooms under common ownership and having substantial recreational guest amenities in addition to the gaming facility.

2.36. "Holding company" means any person, other than an individual, that:

2.36.a. Directly or indirectly owns, has the power or right to vote or control, or holds with the power to vote ~~more than 5%~~ five percent or more of the stock, equity interest, or other voting security of a person that holds, or has applied for, the limited gaming facility license

or a supplier's license; or

2.36.b. Directly or indirectly holds, or substantially owns, any power, right, or security through any interest in a subsidiary or successive subsidiaries, regardless of how many subsidiaries may intervene between the holding company and the holder or applicant for, or holder of, the limited gaming facility license or a supplier's license.

2.37. "Immediate family" means any of the following, whether by whole or half blood, marriage, adoption, or effect of law:

2.37.a. A spouse, other than a spouse who is legally separated from the individual under a decree of divorce or separate maintenance;

2.37.b. A parent;

2.37.c. A child;

2.37.d. A dependent;

2.37.e. A sibling;

2.37.f. A spouse of a sibling;

2.37.g. A father-in-law; or

2.37.h. A mother-in-law.

2.38. "Indirect interest" means an interest, claim, right, legal share, or other financial stake in a person that is determined by the Commission to exist by virtue of a financial or other interest in another person.

2.39. "Individual" means any natural person.

2.40. "Intermediary company" means any corporation, firm, partnership, trust, limited liability company, or other form of business entity that:

2.40.a. Is a holding company of a person that has applied for or holds the limited gaming facility license or a supplier license; or

2.40.b. Is a direct-line subsidiary of any holding company of a person that has applied for or holds the limited gaming facility license or supplier license.

2.41. "Internal control system" means the internal procedures, administration, and accounting controls designed by the limited gaming facility licensee for the purpose of exercising control over the gambling operation and its assets.

2.42. "Junket" means an arrangement to induce persons who are selected or approved for participation on the basis of their ability to satisfy a financial qualification obligation related to their ability or willingness to come to the limited gaming facility for the purpose of gambling and who receive as consideration all or part of the cost of transportation, food or entertainment directly or indirectly paid by the limited gaming facility licensee or its agent.

2.43. "Junket representative" means a person, other than the limited gaming facility licensee or the limited gaming facility license applicant, who receives payment for the referral, procurement, or selection of persons who may participate in a junket to the limited gaming facility in West Virginia, based upon the person's actual or calculated potential to wager or lose, regardless of whether the Activities of the junket representative occur within the State of West Virginia.

2.44. "Key person" means any of the following entities:

2.44.a. An officer, director, trustee, partner, or proprietor of a person that has applied for or holds the limited gaming facility or a supplier license or an affiliate or holding company that has control of a person that has applied for or holds the limited gaming facility license or a supplier license;

2.44.b. A person that holds a combined direct, indirect, or attributed debt or equity interest of ~~more than 5%~~ five percent or more in a person that has applied for or holds the limited gaming facility license or a supplier license;

2.44.c. A person that holds a combined direct, indirect, or attributed equity interest of ~~more than 5%~~ five percent or more in a person that has a controlling interest in a person that has applied for or holds limited gaming facility license or a supplier license;

2.44.d. A managerial employee of a person that has applied for or holds the limited gaming facility license or a supplier license in West Virginia, or a managerial employee of an affiliate or holding company that has control of a person that has applied for or holds the limited gaming facility license or a supplier license in West Virginia, who performs the function of principal executive officer, principal operating officer, principal accounting officer, or an equivalent officer;

2.44.e. A managerial employee of a person that has applied for or holds the limited gaming facility license or a supplier license, or a managerial employee of an affiliate or holding company that has control of a person that has applied for or holds the limited gaming facility license or supplier license, who will perform or performs the function of gaming operations manager, or will exercise or exercises management, supervisory, or policy-making authority over the proposed or existing gambling operation, casino operation, or supplier business operations in West Virginia and who is not otherwise subject to occupational licensing in West Virginia.; or

2.44.f. An institutional investor who has a controlling interest in the licensee. For purposes of this rule, the term institutional investor does not include owners of common stock of

a licensee by a state or federally licensed banking institution, nor does it include ownership of a licensee's stock by an institutional investor such as a pension fund or a mutual fund registered with the United State Securities and Exchange Commission, as well as a registered investment company, a registered investment advisor, a collective trust fund or a qualified insurance company as those entities are defined in the Investment Company Act of 1940 and the Investment Advisors Act or 1940, that is holding the stock only as an investment and not for purposes of control of the licensee or permit holder.

2.45. "Licensee" means a person who holds a license under the Act.

2.46. "Limited gaming facility license" means a license issued by the Commission to one person to own or operate one casino in West Virginia under the Act.

2.47. "Live game" means ~~a gambling table game which does not involve an electronic gaming device and which that~~ is played with at a live gaming device table operated by employees of the licensed limited gaming facility who are physically present at the table during all table game play.

2.48. "Live gaming device" means any non-electrical or non-electromechanical apparatus used to gamble upon, including, but not limited to, any of the following:

2.48.a. A roulette wheel and table;

2.48.b. A blackjack table;

2.48.c. A craps table; ~~or~~

2.48.d. A poker table; or

2.48.e. Other Commission-approved table games.

2.49. "Lottery," when the first letter is capitalized, means the State Lottery of West Virginia, its Director and the State Lottery Commission and its Commissioners who operate and administer the State Lottery, pursuant to authority granted under the Act and under the State Lottery Act, W.Va. Code §29-22-1 et seq., and the Authorized Gaming Facility Act, W.Va. Code §29-25-1 et seq.

~~2.49,2.50.~~ "Lottery casino premises office" means dedicated office space in the limited gaming facility which is for the exclusive use of the West Virginia Lottery for performing any of its functions and which is separate from, and does not include, the surveillance room.

~~2.50,2.51.~~ "Lottery central control computer" means one or more computer systems which are approved by the Commission and:

~~2.50.a,2.51.a.~~ Are connected to all video lottery terminals in the limited gaming facility to record and contemporaneously monitor the play and cash flow and security of each

~~electronic gaming device~~ video lottery terminal;

2.50.b-2.51.b. Are capable of monitoring the activities of the live gaming devices, including, but not limited to, any of the following or their equivalents:

2.50.b.1-2.51.b.1. Table fills;

2.50.b.2-2.51.b.2. Table credits; and

2.50.b.3-2.51.b.3. Table gaming receipts, disbursements, and revenues.

2.50.e-2.51.c. Are capable of tracking the activities of the live gaming devices, including, but not limited to, the following or their equivalents:

2.50.e.1-2.51.c.1. Table game inventories; and

2.50.e.2-2.51.c.2. Employee gratuity receipt and disbursement accounting.

2.50.d-2.51.d. Are capable of monitoring the activities of the main bank and all cages, including, but not limited to, the following or their equivalents:

2.50.d.1-2.51.d.1. Manual payouts;

2.50.d.2-2.51.d.2. Hopper credits and hopper fills; and

2.50.d.3-2.51.d.3. Table credits and fills;

2.50.e-2.51.e. Are capable of tracking the activities of the main bank and all cages, including, but not limited to, the following or their equivalents:

2.50.e.1-2.51.e.1. A receipt and record of hard and soft count;

2.50.e.2-2.51.e.2. A record of gaming receipts, disbursements and revenues;

2.50.e.3-2.51.e.3. A cashier checkout;

2.50.e.4-2.51.e.4. The Main bank and cage inventory;

2.50.e.5-2.51.e.5. Deposits;

2.50.e.6-2.51.e.6. Cash transaction reports; and

2.50.e.7-2.51.e.7. Patron credit;

~~2.50.f.2.51.f.~~ Are capable of monitoring the limited gaming facility licensee's casino accounting package; and

~~2.50.g.2.51.g.~~ Are linked by dedicated telecommunication lines to Commission-designated computer terminals located in Commission offices on and off the limited gaming facility's premises. The terminals shall be able to access, receive, and display the information required and prescribed by the Commission.

~~2.51. "Lottery Game" means the public gaming system or games established and operated by the Lottery office.~~

2.52. "Lottery-specified identifier symbol" means a logo, symbol or icon that is the intellectual property of the State Lottery Commission created and designated specifically for use on West Virginia Lottery table game equipment and supplies as allowed by W.Va. Code §29-25-34.

~~2.52.2.53.~~ "Lottery surveillance room" means dedicated office space in the limited gaming facility for the exclusive use of the West Virginia Lottery for the monitoring and recording of gaming or any other activities.

~~2.53.2.54.~~ "Main bank" means the casino department that is responsible for at least all of the following:

~~2.53.a.2.54.a.~~ Cashing customer checks;

~~2.53.b.2.54.b.~~ Establishing hold check privileges;

~~2.53.c.2.54.c.~~ Redeeming chips or tokens, or both;

~~2.53.d.2.54.d.~~ Providing working funds to all operational departments;

~~2.53.e.2.54.e.~~ Deposits of front money;

~~2.53.f.2.54.f.~~ Maintaining custody of all inventory;

~~2.53.g.2.54.g.~~ Processing markers; and

~~2.53.h.2.54.h.~~ Assuming responsibility for all of the following individuals and physical structures:

~~2.53.h.1.2.54.h.1.~~ Casino cashiers;

~~2.53.h.2.2.54.h.2.~~ Change attendants;

~~2.53.h.3.2.54.h.3.~~ Main bank vault or vaults; and

~~2.53.h.4, 2.54.h.4.~~ Any other structure that houses tokens, chips, or other representatives of value that the main bank is accountable for.

~~2.54, 2.55.~~ "Marker" means an electronic or written document that evidences an extension of credit to a patron by the limited gaming facility licensee, including any writing taken in consolidation, redemption, or payment of a previous marker.

2.56. "Match play coupon" means a promotional item in paper or plastic form with a fixed stated play ratio and value that is issued and used by the limited gaming facility licensee, and the stated value of which, when presented by a patron with gaming chips which are in the stated ratio in value to the stated value of the promotional item, is included in the amount of the patron's wager in determining the amount the patron receives as the result of a winning wager made with the gaming chips and their accompanying promotional item.

~~2.55. "West Virginia taxpayer identification number" means the business registration certificate number assigned to businesses registered with the West Virginia Department of Tax and Revenue.~~

~~2.56. "Nominee" means a person that holds, as owner of record, the legal title to tangible or intangible personal or real property, including, without limitation, any of the following on behalf of another person with respect to the property:~~

~~2.56.a. A stock;~~

~~2.56.b. A bond debenture;~~

~~2.56.c. A note;~~

~~2.56.d. An investment contract; or~~

~~2.56.e. Real estate.~~

2.57. "Non-value chip" means a chip which is clearly and permanently impressed, engraved, or imprinted with the name of the limited gaming facility licensee, but which does not bear a value designation.

2.58. "One-on-one continuous surveillance" means that a licensed surveillance employee is dedicated to continuously monitor a given area without interruption or distraction as prescribed by the Commission.

2.59. "Patron complaint" means a complaint a patron has regarding winnings and losses or the conduct of gambling at the limited gaming facility.

2.60. "Payout" means the winnings that result from a wager.

2.61. "Person" means a human being, association, corporation, club, trust, estate, society, governmental entity, company, joint stock company, receiver, trustee, assignee, referee, and anyone acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of human beings.

~~2.62. "Petitioner" means any of the following:~~

~~2.62.a. A person whose license application has been denied by the Commission;~~

~~2.62.b. A person whose license has not been renewed;~~

~~2.62.c. A person who has been placed on the exclusion list; or~~

~~2.62.d. A person whose request has been otherwise denied by the Commission and who has the right to appeal the denial under the Act or this rule.~~

~~2.63-2.62.~~ "Picture identification" means a driver license or other piece of identification which is issued by a governmental entity and which has a picture of the individual affixed to, or otherwise part of, the document.

~~2.64-2.63.~~ "Pit" means the area enclosed or encircled by the arrangement of the gaming tables in which casino gambling personnel administer and supervise the live games played at the tables by patrons located outside the perimeter of the area.

~~2.65-2.64.~~ "Predecessor company" means an entity which no longer exists in its original form, but which has assets that have been acquired, in substantial part, by another person or which has undergone certain internal changes, such as a change in identity, form, or capital structure.

~~2.66. "Prize" means any award, financial or otherwise, awarded by the limited gaming facility.~~

~~2.67-2.65.~~ "Public offering" means a sale of securities that is subject to the registration requirements of section 5 of the securities act of 1933, 15 U.S.C. § 77e, or that is exempt from the registration requirements solely by reason of an exemption contained in either of the following provisions:

~~2.67.a-2.65.a.~~ Section 3(a)(10), 3(a)(11), or 3(c) of the securities act of 1933, 15 U.S.C. § 77c(a)(10), 15 U.S.C. § 77c(a)(11), or 15 U.S.C. § 77c(c); or

~~2.67.b-2.65.b.~~ Regulation A or regulation D adopted under section 3(b) of the securities act of 1933, 15 U.S.C. § 77c(b).

~~2.68. "Public official" means a person to whom any of the following provisions apply:~~

~~2.68.a. The person is authorized to perform an official function on behalf of, and is paid~~

~~by a state, local, or federal governmental entity in West Virginia or any other jurisdiction.~~

~~2.68.b. The person is elected or appointed to office to discharge a public duty for a state, local, or federal governmental entity in West Virginia or any other jurisdiction; or~~

~~2.68.c. The person is appointed in writing by a public official to act in an advisory capacity, with or without compensation, to a state, local, or federal governmental entity in West Virginia or any other jurisdiction concerning a contract or purchase to be made by the entity.~~

2.69.2.66. "Publicly held company" or "publicly traded corporation" means any of the following:

2.69.a.2.66.a. A person, other than an individual, to which either of the following provisions applies:

2.69.a.1.2.66.a.1. The person has one or more classes of voting securities registered under section 12 of the Securities and Exchange Act of 1934, 15 U.S.C. § 78l;

2.69.a.2.2.66.a.2. The person issues securities and is subject to section 15(d) of the Securities and Exchange Act of 1934, 15 U.S.C. § 78o(d); or

2.69.a.3.2.66.a.3. Another person, other than an individual, required to file under the Securities and Exchange Act of 1934, 15 U.S.C. § 78a et seq.;

2.69.b.2.66.b. A person, other than an individual, created under the laws of a foreign country to which both of the following provisions apply:

2.69.b.1.2.66.b.1. The person has one or more classes of voting securities registered on the foreign country's securities exchange or over-the-counter market, including any person, other than an individual, that has securities registered or is an issuer under this definition solely because it guaranteed a security issued by an affiliate under a public offering and is considered by the Securities and Exchange Commission to be a co-issuer of a public offering of securities under rule 140 of the Securities and Exchange Act of 1934, 15 U.S.C. § 78;

2.69.b.2.2.66.b.2. The Commission has determined that the person's activities are regulated in a manner that protects the investors and the State of West Virginia, including any person, other than an individual, that has securities registered or is an issuer under this definition solely because it guaranteed a security issued by an affiliate under a public offering and is considered by the Securities and Exchange Commission to be a co-issuer of a public offering of securities under rule 140 of the Securities and Exchange Act of 1934, 15 U.S.C. § 78; and

2.69.e.2.66.c. A person, other than an individual, that has shares which are traded on an established securities market or traded on a secondary market.

2.70.2.67. "RAM" or "random access memory" means the electronic component used for

computer work space and storage of volatile information in ~~an electronic gaming device~~ a video lottery terminal.

2.71.2.68. "Randomness" means the unpredictability and absence of pattern in the outcome of an event or sequence of events.

2.72.2.69. "Random number generator" means hardware, software, or a combination of hardware and software devices for generating number values that exhibit the characteristics of randomness.

2.73.2.70. "Registered agent" means an individual designated to accept service of legal process on behalf of another person.

2.74.2.71. "Related party" means one of the following:

2.74.a.2.71.a. An individual or business entity that has a pecuniary interest in the limited gaming facility licensee, a license applicant, or an affiliate thereof, if the limited gaming facility licensee, license applicant, or affiliate is not a publicly held company;

2.74.b.2.71.b. A holder of ~~more than 5%~~ five percent or more of the outstanding shares of the limited gaming facility licensee, a license applicant, or an affiliate thereof, if the limited gaming facility licensee, license applicant, or affiliate is a publicly held company;

2.74.c.2.71.c. A key person of the limited gaming facility licensee, a license applicant, or an affiliate of the limited gaming facility licensee or a license applicant;

2.74.d.2.71.d. An affiliate of the limited gaming facility licensee or a license applicant;

2.74.e.2.71.e. An immediate family member of a holder of ~~more than 5%~~ five percent or more of the outstanding shares of the limited gaming facility licensee, a license applicant, or an affiliate of the limited gaming facility licensee or a license applicant;

2.74.f.2.71.f. A relative of a key person of the limited gaming facility licensee, a license applicant, or an affiliate of the limited gaming facility licensee or a license applicant;

2.74.g.2.71.g. A relative of an affiliate of the limited gaming facility licensee or a license applicant;

2.74.h.2.71.h. A trust for the benefit of, or managed, by the limited gaming facility licensee, a license applicant, or an affiliate or a key person of the limited gaming facility licensee or a license applicant;

2.74.i.2.71.i. Any other person who is able to significantly influence the management or operating policies of the limited gaming facility licensee, a license applicant, or an affiliate of the limited gaming facility licensee or a license applicant; or

~~2.74.j-2.71.j.~~ An institutional investor that has a controlling interest in a person that has applied for or holds the limited gaming facility license or supplier license.

~~2.75.2.72.~~ "Related party transactions" means transactions relating to gambling or video lottery operations between the limited gaming facility licensee or license applicant and at least one of the following:

~~2.75.a-2.72.a.~~ A related party;

~~2.75.b-2.72.b.~~ An immediate family member; or

~~2.75.e-2.72.c.~~ A dependent.

~~2.76.2.73.~~ "Relative" means any of the following entities whether by whole or half blood, marriage, adoption, or natural relationship:

~~2.76.a-2.73.a.~~ A spouse, other than a spouse who is legally separated from the individual under a decree of divorce or separate maintenance.

~~2.76.b-2.73.b.~~ A parent;

~~2.76.e-2.73.c.~~ A grandparent;

~~2.76.d-2.73.d.~~ A child;

~~2.76.e-2.73.e.~~ A grandchild;

~~2.76.f-2.73.f.~~ A sibling;

~~2.76.g-2.73.g.~~ An uncle;

~~2.76.h-2.73.h.~~ An aunt;

~~2.76.i-2.73.i.~~ A nephew;

~~2.76.j-2.73.j.~~ A niece;

~~2.76.k-2.73.k.~~ A first cousin;

~~2.76.l-2.73.l.~~ A father-in-law;

~~2.76.m-2.73.m.~~ A mother-in-law;

~~2.76.n-2.73.n.~~ A son-in-law;

~~2.76.o-2.73.o.~~ A daughter-in-law;

~~2.76.p-2.73.p.~~ A brother-in-law;

~~2.76.q-2.73.q.~~ A sister-in-law; or

~~2.76.r-2.73.r.~~ A dependent.

~~2.77.~~ "Respondent" means a person against whom a seizure, forfeiture, or disciplinary action has been initiated.

~~2.78.~~ "Sensitive keys" means keys that either the limited gaming facility's management or the Commission considers sensitive to the limited gaming facility licensee's operation and therefore require strict control over custody and issuance in accordance with the licensee's approved internal controls.

~~2.79.~~ "Slug" means a disk or object which is not issued by the limited gaming facility licensee and which does not have a cash value.

~~2.80-2.74.~~ "Sole proprietor" means an individual who owns 100% of the assets and who is principally liable for the debts of a business, regardless of whether another person guarantees payment of the debts.

~~2.81-2.75.~~ "Subsidiary" means a person, other than an individual, including, without limitation, a firm, partnership, trust, limited liability company, or other form of business organization in which an equity interest is owned, subject to a power or right of control, or held with the power to vote directly, indirectly, or in conjunction with a holding company or intermediary company.

~~2.82-2.76.~~ "Substantial creditor" means the holder of a debt instrument against a person which is secured or unsecured, matured or unmatured, liquidated or unliquidated, absolute, fixed, or contingent, and which has an aggregate amount of \$100,000.00 or more.

~~2.83-2.77.~~ "Substantial owner" means the holder, whether owned directly, indirectly or attributed, of any of the following:

~~2.83.a-2.77.a.~~ ~~More than 5%~~ Five percent or more of the total combined voting power of a corporation or ~~more than 5%~~ five percent or more of the total value of shares of all classes of stock of a corporation;

~~2.83.b-2.77.b.~~ ~~More than a 5%~~ Five percent or more interest in a partnership.;

~~2.83.c-2.77.c.~~ ~~More than 5%~~ Five percent or more of the value of a trust computed actuarially; or

~~2.83.d-2.77.d.~~ ~~More than 5%~~ Five percent or more of the legal or beneficial

interest in any other person.

2.78. "Substantial recreational guest amenities" means hotel services including room service, internal access to full-service restaurants, optional guest room turn-down service, valet parking, luggage services, spas and/or a fitness center, golf courses, swimming pools, twenty-four hour housekeeping services, concierge service, in-room movies service, high-speed Internet connectivity in guest rooms, and ample rooms and services for physically handicapped patrons.

~~2.84.2.79.~~ "Supplier" means a person who provides the limited gaming facility with ~~more than fifty thousand dollars worth of~~ goods or services regarding the realty, construction, maintenance, or business ~~in any twelve consecutive months~~ to the limited gaming facility including, but not limited to any of the following:

~~2.84.a.2.79.a.~~ Junket enterprises;

~~2.84.b.2.79.b.~~ Casino security businesses;

~~2.84.c.2.79.c.~~ Manufacturers of gaming devices, video lottery terminals, supplies, articles or equipment;

~~2.84.d.2.79.d.~~ Distributors of gaming devices, supplies, articles or equipment;  
and

~~2.84.e.2.79.e.~~ Persons who service gaming devices or equipment.

~~2.85.2.80.~~ "Surety bond" means a contractual arrangement between the surety, the principal, and the obligee that the surety agrees to protect the obligee if the principal defaults in performing the principal's contractual obligation. The bond is the instrument that binds the surety.

~~2.86.2.81.~~ "Suspected problem area" means an area where unusual occurrences have been observed or good reason exists to believe unusual occurrences will occur.

~~2.87.2.82.~~ "Table drop" means the total dollar amount of United States and foreign currency, chips, marker or credit contained in the drop box of a live gaming device.

~~2.88.2.83.~~ "Table win" means the dollar amount which is won by the limited gaming facility licensee through play at a live game and which is the total of the table drop, plus ending chip inventory, minus opening chip inventory, plus chip credits, minus fills.

~~2.89.2.84.~~ "Theoretical payout percentage" means the sum of the number of cash equivalents, credits, or tokens expected to be paid as a result of the jackpots divided by the number of different possible outcomes.

~~2.90.2.85.~~ "Tilt condition" means a programmed error state for an ~~electronic gaming device~~ a video lottery terminal that occurs when the ~~electronic gaming device~~ video lottery

terminal detects an internal error malfunction or attempted cheating. The ~~electronic gaming device~~ video lottery terminal ceases processing further input, output, or display information other than that indicating the tilt condition itself.

2.91-2.86. "Token" means a representation of value which is redeemable for cash only at the issuing limited gaming facility gambling operation and which is issued and sold by the limited gaming facility licensee for use in the ~~electronic gaming device~~ video lottery terminal at its gambling operation.

2.92-2.87. "Value chip" means a chip that is clearly and permanently impressed, engraved, or imprinted with the name of the limited gaming facility and the specific value of the chip.

2.88. "Video lottery terminal" means a commission-approved interactive electronic terminal device which is connected with the commission's central computer system, and which is used for the purpose of playing video lottery games authorized by the commission. A video lottery terminal may simulate the play of one or more video lottery games.

2.89. "Video lottery terminal drop" means the total value of tokens contained in the drop bucket and the currency collected from bill chargers. If a patron is utilizing an electronic card, then the drop includes the amount deducted from a patron's account as a result of video lottery terminal play.

2.93-2.90. "Voting security" means a security that the holder is entitled to vote generally for the election of a member or members of the board of directors or board of trustees of a corporation or a comparable person or persons in the case of a partnership, trust, or another form of business organization other than a corporation.

2.94-2.91. "Wager" means an item that is representative of value risked on a gambling game authorized under the Act and this rule.

2.95-2.92. "Wide-area progressive system" means a system of ~~electronic gaming device~~ video lottery terminals which are approved by the Commission and which are linked across telecommunication lines as part of a network connecting separate video lottery gaming locations licensed by the Commission with an aggregate prize or prizes. "Wide-area progressive system" can also mean a system connecting video lottery terminals at one or more licensed video lottery location in West Virginia with one or more locations in one or more other states where all locations are operated, licensed and governed by one or more state lotteries as is permitted by article 6, section 36 of the West Virginia Constitution.

## **PART 2. ADMINISTRATIVE PROVISIONS**

### **§179-4-3. Provisions Pertaining to Applications, Records and Commission Authority.**

3.1. In the interpretation of any rules adopted by the Commission, an ambiguity shall be resolved in favor of the interpretation which would provide either of the following:

3.1.a. The greater assurance of integrity in either the operation or regulation of casino gambling; or

3.1.b. Heightened public confidence in the regulation or regulatory processes relating to casino gambling.

3.2. If a provision of a rule promulgated by the Commission or the application of a rule to any person or circumstance, is held invalid by a court of competent jurisdiction, then the provision or application shall not affect other provisions that can be given effect without the invalid provision or application.

3.3. The limited gaming facility licensee and each supplier licensee shall maintain, in a place secure from theft, loss, or destruction, adequate records of its business and accounting operations relating to the gaming operations regulated by this rule. The limited gaming facility licensee or a supplier licensee shall make the records available to the Commission, upon request, within a reasonable time period prescribed by a subpoena *duces tecum* or by written request of the Director, or his or her designee. A limited gaming facility licensee shall keep and maintain the books, records, or documents in a manner and form approved or required by the Commission.

3.3.a. The limited gaming facility licensee or a supplier licensee shall hold the records for ~~not less than 5 years~~ the current year and the two previous years. Records held off-site shall be retrieved and presented to the Commission's representative within five days of the request to do so. The records shall include, but not be limited to, all of the following:

3.3.a.1. All correspondence with, or reports to, the Commission or any local, state, or federal governmental agency;

3.3.a.2. All correspondence concerning the acquisition, construction, maintenance, or business of a proposed or existing the limited gaming facility;

3.3.a.3. A personnel file on each employee; and

3.3.a.4. All accounting records, ledgers, subsidiary records, computer generated data and internal audit records pertaining to gambling or video lottery activities.

3.3.b. Notwithstanding the foregoing provisions of subdivision 3.3.a of this rule, a limited gaming facility licensee or supplier licensee shall hold copies of all promotional and advertising material, records, or complimentary distributions for the limited gaming facility for at least one year.

3.3.c. The limited gaming facility shall organize and index all required records in a manner that enables the Commission to locate, inspect, review, and analyze the records with reasonable ease and efficiency.

3.3.d. Nothing in subsection 3.3 of this rule shall be construed to require

disclosure of documents subject to the attorney-client privilege if the licensee or applicant informs the Director of the existence of the document, a general description of its contents, and the basis for the privilege.

3.4. Unless otherwise permitted or required, a person shall submit all forms, fees, documents, papers, and other materials to Lottery Headquarters in the manner and form prescribed by the Commission.

3.5. An action of the West Virginia Lottery regarding an applicant or licensee relates only to the applicant's or licensee's qualification for licensure under the Act and this rule and does not indicate or suggest that the Commission has considered or passed on the qualifications or application of the applicant or licensee for any other purpose.

3.6. A licensee shall disclose changes in information.

3.6.a. Except as otherwise provided in this rule, if an obligation has been placed upon a licensee to report or submit information to the West Virginia Lottery, the reporting or submission may be accomplished by providing the information to an employee of the West Virginia Lottery ~~or a member of the West Virginia State Police assigned to assist the West Virginia Lottery.~~

3.6.b. A licensee or an applicant for a license has a continuing duty to disclose ~~promptly~~ any material changes in information provided to the West Virginia Lottery ~~as seen as~~ within thirty days of the time that the applicant or licensee becomes aware of the change. The duty to disclose changes in information continues throughout any period of licensure granted by the West Virginia State Lottery Commission. A licensee or applicant shall make sure that all required release of information forms submitted to the West Virginia Lottery are current.

3.7. An applicant or licensee shall disclose representatives.

3.7.a. An applicant or licensee shall file with the West Virginia Lottery a list of persons authorized to act on the applicant's or licensee's behalf as to any matter before the Commission. An attorney appearing on behalf of an applicant or licensee in a matter before the Commission shall promptly file an appearance identifying his or her client and the matter in which the attorney will appear.

3.7.b. A person holding or applying for the limited gaming facility license or supplier license shall establish and identify a registered agent within the State of West Virginia for the purpose of accepting service of process, notices, and other forms of communication for the person holding or applying for a limited gaming facility license or supplier license.

3.8. A limited gaming facility licensee or supplier licensee shall conduct a reasonable investigation of the background of employees whose duties are related to, or involved in, the conduct of gambling operations in the State of West Virginia to reasonably ensure that the employee is eligible and suitable for the employment under the licensing standards and other requirements of the Act and this rule. A limited gaming facility licensee or supplier licensee

shall keep and maintain written records of investigations for all employees. The limited gaming facility licensee or supplier licensee shall make the written records available to the Commission, upon request, within a reasonable time period prescribed by the West Virginia Lottery. Licensure by the Commission may not be relied on by the licensee as the sole criterion for hiring a job applicant.

3.9. Provisions for investigative hearings.

3.9.a. The Commission, when necessary, may conduct hearings for the purpose of investigating an applicant, an application, a licensee, or a third party to gather information regarding eligibility and suitability for licensure, alleged violations of the Act or this rule, or other Commission action under the Act or this rule.

3.9.b. The Commission may require an applicant, a licensee, or a key person or employee of an applicant or licensee to testify or to produce any documents, records, or other materials at a proceeding conducted under this rule.

3.9.c. The Commission, through the Director or his or her designee, may issue subpoenas and subpoenas duces tecum for the production of persons, documents, or other items at a proceeding conducted under this rule.

3.9.d. All testimony at proceedings conducted under this rule shall be given under oath or affirmation administered by a Commission member, hearing officer, or the Director or a person designated by the Director.

3.10. Participation in games by owners, directors, officers, key persons, or gaming employees prohibited. An officer, director, key person, managerial employee, or occupational licensee of the limited gaming facility licensee shall not play or be permitted to play any gambling game at the limited gaming facility except in the course of employee training or when that person is demonstrating to one or more patrons how to play a permitted casino game or video lottery game. A person regulated by this rule shall not be permitted to redeem chips or tokens for any other person, except that a person may redeem chips or tokens in the course of his or her employment with the limited gaming facility.

3.11. Receipt of commercially reasonable consideration for contracts and transactions are required. An applicant for, or holder of the limited gaming facility or supplier license may not enter into or perform any contract or transaction in connection with gambling operations or casino operations related to the limited gaming facility license or supplier license for which application has been made or which the licensee holds unless the applicant or licensee transfers or receives consideration that is commercially reasonable.

~~3.12. Rules regarding weapons in the limited gaming facility.~~

~~3.12.a. A person may not carry a firearm or other weapon in the limited gaming facility, except for persons employed in any of the following capacities:~~

~~3.12.a.1. A state, county and municipal law enforcement officer;~~

~~3.12.a.2. A federal law enforcement officer, as defined in 5 U.S.C. § 8331;~~

~~3.12.a.3. A West Virginia Lottery employee who is bonded and qualified to carry a firearm and has been authorized to do so by the Director; and~~

~~3.12.a.4. An armored car person picking up or delivering currency at secured areas.~~

~~3.12.b. Law enforcement officers conducting official duties within the limited gaming facility shall, to the extent practicable, advise the West Virginia Lottery security personnel of their presence.~~

~~3.12.c. The limited gaming facility's employed security personnel may carry handcuffs while on duty in the casino. Any limited gaming facility security employee who is bonded and qualified to carry a firearm, and has been authorized to do so by the licensee, may carry a firearm while on duty in the casino if the licensee has delivered prior notice to the West Virginia Lottery that includes all authorizing and qualifying documents.~~

~~3.13. Except as otherwise provided in this rule, the Act or other relevant statutes, the Commission shall determine its own practices and internal rules of procedure.~~

3.14. 3.12. The Commission delegates to the Director all power and authority to act in the name of the West Virginia Lottery with respect to all reasonable, necessary, and appropriate actions to administer and carry out the administrative and executive functions of the West Virginia Lottery, including, but not limited to, the power to do any of the following:

3.14.a. 3.12.a. Issue subpoenas for the attendance of witnesses and subpoenas duces tecum for the production of documents and materials;

3.14.b. 3.12.b. Administer oaths;

3.14.c. 3.12.c. Issue and renew occupational licenses under this rule;

3.14.d. 3.12.d. Request and accept documents, plans, procedures, amendments to procedures, and other information necessary for the West Virginia Lottery to carry out its duties under the Act and this rule;

3.14.e. 3.12.e. Conduct investigations, inspections, audits, share information with law enforcement agencies; and engage in other functions necessary to the proper administration and enforcement of the Act and this rule; and

3.14.f. 3.12.f. Grant requests and waivers, answer inquiries, issue interpretations, and otherwise take any action that is reasonably requested by applicants and licensees in furtherance of, and consistent with, the efficient administration and enforcement of the provisions of the Act and this rule, as determined to be necessary or appropriate by the Director.

~~3.15.~~ 3.13. The limited gaming facility licensee or license applicant shall maintain a central repository of all of its contracts at its facility that relate to its gambling and video lottery operations. The Director and designated West Virginia Lottery employees shall be allowed unrestricted access to the repository and any contract or transaction entered into by the limited gaming facility licensee or license applicant upon demand. The licensee or applicant may be required by the Director to submit promptly copies of any contract upon written request of the Director.

~~3.16. A contract or transaction that relates to its gambling and video lottery operations entered into by the limited gaming facility licensee or a license applicant that is more than \$5,000.00 shall be a written contract.~~

~~3.17. A limited gaming facility licensee or license applicant shall submit, for approval by the West Virginia Lottery, an internal control procedure regarding purchasing transactions that relate to its gambling and video lottery operations.~~

~~3.17.a. The internal control procedure shall include a statement of policy regarding ethical standards and compliance with state and federal laws. The statement shall prohibit purchasing and contracting personnel from accepting gifts and gratuities from suppliers of goods or services, except in accordance with a written policy submitted with the internal control procedures.~~

~~3.17.b. The internal control procedures submitted shall include, but not be limited to, all of the following information:~~

~~3.17.b.1. The manner in which purchase requisitions will be issued;~~

~~3.17.b.2. The amounts that can be authorized by various positions or level of personnel;~~

~~3.17.b.3. Requirements for any competitive bidding process, including the number of bids required;~~

~~3.17.b.4. Procedures for issuing and approving blanket purchase orders;~~

~~3.17.b.5. Procedures and approval regarding emergency purchases;~~

~~3.17.b.6. Criteria for qualifying approved vendors of goods or services based on such factors as the following:~~

~~3.17.b.6.A. The quality of the product or service to be provided;~~

~~3.17.b.6.B. The suitability of the vendor of the goods or services;~~

~~3.17.b.6.C. The price; and~~

~~3.17.b.6.D. Any other criteria the Commission considers necessary to ensure compliance with the Act and this rule;~~

~~3.17.b.7. Documentation that goods or services acquired were obtained on the basis of a price that is commercially reasonable considering the criteria set forth in paragraph 3.17.b.6 of this rule;~~

~~3.17.b.8. Procedures and approval process for the acquisition of goods or services that are unique and not easily acquired through the normal competitive bid process;~~

~~3.17.b.9. Procedures to ensure that vendor files maintained by the limited gaming facility licensee or license applicant contain all forms, documentation, and approvals required by the internal control procedures;~~

~~3.17.b.10. Procedures for the approval of contracts or transactions in an amount that is more than \$50,000.00 for a single contract in the aggregate by vendor;~~

~~3.17.b.11. A written policy regarding the acceptance of gifts or gratuities by purchasing and contracting personnel from suppliers of goods or services; and~~

~~3.17.b.12. Any other internal control procedure the West Virginia Lottery considers necessary to ensure compliance with the Act and this rule and prevent money laundering, kickbacks and other unlawful or commercially unreasonable transactions.~~

#### **~~§179-4-4. Related Party Contracts or Transactions. Reserved.~~**

~~4.1. Unless otherwise directed by the Commission, the licensee's internal control procedures for disclosure and approval of related party contracts or transactions do not apply to any of the following transactions:~~

~~4.1.a. Transactions between the limited gaming facility licensee or license applicant and a supplier licensee;~~

~~4.1.b. The payment of dividends or other distributions to shareholders; and~~

~~4.1.c. Scheduled repayments of related party debt;~~

~~4.2. A related party transaction shall be in compliance with the internal control procedures set forth in this rule and both of the following provisions:~~

~~4.2.a. A related party transaction or series of related transactions reasonably anticipated to be greater than \$250,000.00 in a 12 month period is subject to approval by the board of directors, the owner, or a designee of equivalent level; and~~

~~4.2.b. The limited gaming facility licensee shall not enter into any related party contracts, transactions, or series of transactions expected to be more than \$5,000,000.00, unless approved~~

by the Commission.

#### **§179-4-5. Duty of Reasonable Care.**

5.1. A limited gaming facility licensee, limited gaming facility license applicant, supplier license applicant or supplier licensee shall exercise reasonable care to ensure that each contract or transaction the licensee or license applicant enters into meets the requirements of the Act and this rule.

#### **§179-4-6. Commission Reports.**

~~6.1. The limited gaming facility licensee or license applicant shall, on a quarterly basis, file a summary of all contracts and non-wagering transactions relating to gambling and/or video lottery operations which involve an amount of more than \$50,000.00 or which are reasonably anticipated to be more than \$50,000.00 in a 12-month period. The quarterly reports shall be due on the thirtieth day of April, July, October, and January. The reports shall be compiled in the manner, and on the form, prescribed by the Commission and shall include all of the following information:~~

~~6.1.a. The name, business address, and business telephone number of the party with whom the limited gaming facility licensee or license applicant entered a contract and whether or not the party is or was a related party;~~

~~6.1.b. The amount of the transaction or payments under the contract;~~

~~6.1.c. The date of execution;~~

~~6.1.d. The nature of the contract or transaction, including the type of goods or services to be provided;~~

~~6.1.e. A determination of how the commercial reasonableness of the contract, transaction, and consideration for related goods or services was ascertained;~~

~~6.1.f. A statement certifying that all contracts and transactions summarized in the quarterly report are in compliance with this rule. The certification statement shall be signed by the general manager, or his or her equivalent, of the limited gaming facility licensee or license applicant; and~~

~~6.1.g. Any other information the Commission considers necessary to ensure compliance with the Act or this rule.~~

~~6.2. The quarterly report shall contain the information set forth in subsection 6.1 of this rule with respect to any oral contracts or transactions relating to gambling and/or video lottery operations that involve an amount more than \$5,000.00 in a 12-month period.~~

The Commission shall specify from time to time the nature and frequency of reports a

licensee shall make to the Commission to ensure compliance with the Act or this rule.

**§179-4-7. Mandatory Contract Notification.**

~~7.1. The limited gaming facility licensee or an applicant for a limited gaming facility license shall notify the Commission, in writing, as soon as practicable, after entering into a contract, transaction, or series of transactions relating to gambling and/or video lottery operations in an amount which is more than \$50,000.00 or which is reasonably anticipated to be more than \$50,000.00 in any 12-month period. The written notice of a contract shall be on forms prescribed by the Commission.~~

~~7.2.~~ The Commission may direct a licensee or applicant to cancel any contract or transaction relating to gambling and/or video lottery operations that the Commission determines does not comply with the Act and this rule. A contract relating to gambling and/or video lottery operations entered into by a limited gaming facility licensee or license applicant shall contain a provision permitting the limited gaming facility licensee or license applicant to terminate the contract if the Commission determines that the contract does not comply with the Act or this rule.

~~7.3.~~~~7.2.~~ A limited gaming facility licensee or license applicant shall include a contract described in this rule in the quarterly and annual reports submitted under this rule.

**§179-4-8. Confidential Records.**

8.1. Materials, or portions of materials, submitted under the Act or this rule may be identified as confidential by a licensee, an applicant for a license, or any other person. If the materials are exempt from disclosure by statute, the materials shall not be disclosed by the Commission, except to other federal and state gambling regulating agencies and law enforcement agencies.

**§179-4-9. Waiver, Restriction or Alteration of Requirements.**

9.1. The Commission may, in writing, waive, restrict, or alter any requirement or procedure set forth in this rule, if the Commission determines that the requirement or procedure is impractical or burdensome, that the waiver, restriction, or alteration is in the best interest of the public and the gaming industry, and that the waiver, restriction, or alteration is not outside the technical requirements necessary to serve the purpose of the requirement or procedure.

**§179-4-10. General Reporting Requirements; Obligation to Report Certain Events.**

~~10.1.~~ A person who holds or applies for the limited gaming facility license or a supplier license shall provide an immediate oral report, followed by a written report, of suspected criminal activity related to the person's proposed or existing gambling operation or casino operation or supplier operations in West Virginia. ~~The person shall provide the reports to the West Virginia state police, gaming section, as soon as practicable after the person becomes aware of the activity.~~ Additionally, a person who applies for or holds the limited gaming facility

license or supplier license shall provide written notice to the Commission at the time the person becomes aware of any of the following:

~~10.1.a.10.1.~~ A violation or apparent violation of the Act or this rule by any of the following entities:

~~10.1.a.1.10.1.a.~~ A person who applies for or holds the limited gaming facility license or a supplier license;

~~10.1.a.2.10.1.b.~~ A key person, an employee of a person applying for or holding the limited gaming facility license or a supplier license, or a key person of a holding company or affiliate that is in control of a key person, an employee of a person applying for or holding the limited gaming facility license or a supplier license; or

~~10.1.a.3.10.1.c.~~ A person who acts, or is authorized to act, on behalf of or in furtherance of the interests of the limited gaming facility license or supplier license applicant or licensee, or a holding company or affiliate that is in control of the applicant or licensee;

~~10.1.b.10.2.~~ The initiation of any investigation that could, or any action that does, result in the imposition of any civil, criminal, or administrative sanction or penalty upon a person who applies for or holds the limited gaming facility license or a supplier license;

~~10.1.e.10.3.~~ To the extent known, the initiation of any investigation that could, or any action that does, result in the imposition of any civil, criminal, or administrative sanction or penalty upon a person who applies for or holds an occupational license;

~~10.1.d.10.4.~~ The filing of any criminal, civil, or administrative complaint against a holding company or affiliate that has control of the applicant or holder of the limited gaming facility license or a supplier license that relates to the eligibility and suitability of the applicant or licensee to hold the limited gaming facility license or a supplier license in West Virginia under the Act and this rule;

~~10.1.e.10.5.~~ The receipt of a subpoena that requires testimony by the person applying for or holding the limited gaming facility license or a supplier license, or by a key person, holding company or affiliate in control of the person applying for or holding the limited gaming facility license or a supplier license, that relates to the gambling or casino operations or business practices of the applicant or licensee in West Virginia or any other jurisdiction;

~~10.1.f.10.6.~~ The receipt of a complaint or other notice filed with a public body regarding a delinquency in the payment of, or a dispute over the filings concerning the payment of, a tax required under federal, state, or local law, including all of the following information:

~~10.1.f.1.10.6.a.~~ The tax amount;

~~10.1.f.2.10.6.b.~~ The type of tax;

~~10.1.f.3.~~10.6.c. The taxing agency; and

~~10.1.f.4.~~10.6.d. The time periods involved.

~~10.1.g.~~10.7. A bankruptcy, receivership, or debt adjustment initiated by or against the person applying for or holding the limited gaming facility license or a supplier license or an officer, director, or the immediate parent company who is in control of the person applying for or holding the limited gaming facility license or a supplier license.

~~10.1.h.~~10.8. A compliance review conducted by the internal revenue service in accordance with title 31 of the United States Code, 31 U.S.C. § 5311 et seq., relating to the person applying for or holding the limited gaming facility license or a supplier license, an officer, a director, a holding company, or an affiliate that is in control of the person applying for or holding the limited gaming facility license or a supplier license. The person applying for or holding the limited gaming facility license or a supplier license shall provide the Commission with a copy of the compliance review report or its equivalent within 10 days of the receipt of the report;

~~10.1.i.~~10.9. A suspicious activity report or a ~~casino-suspicious activity~~ currency transaction report, or both. Copies of the reports shall also be filed with the West Virginia State Police and the Commission at the time the reports are filed with the federal government may be made available for viewing by authorized Commission personnel;

~~10.1.j.~~10.10. A material violation of Commission-approved internal control procedures related to security or to the transfer, collection, distribution, or accounting of monies and a statement of the corrective action taken by the limited gaming facility licensee with respect to the violations;

~~10.1.k.~~ 10.11. A material violation of an agreement with a governmental authority in West Virginia; or

~~10.1.l.~~10.12. Any action, occurrence, or nonoccurrence for which the Commission has instructed the person applying for or holding limited gaming facility license or a supplier license to provide notice.

#### **§179-4-11. Licensee's Duty to Disclose Violation of Licenses.**

~~11.1.~~ A person who holds or applies for a license shall immediately notify the Commission, in writing, if the person becomes aware that a limited gaming facility, supplier, or occupational licensee is in violation of the Act or this rule

#### **§179-4-12. Applicant's Obligation to Report Certain Events.**

~~12.1.~~ Whenever this rule requires a licensee to provide notice to the Commission of a fact or occurrence, an applicant for a license shall provide a written notice to the Commission under the same circumstances that a licensee is required to provide notice, except to the extent

that the Commission may waive the requirements.

**§179-4-13. Contents of Notice and Supplementation Requirement.**

13.1. The written notices required under the Act and this rule shall provide the detail that is reasonably required to describe the reported event and shall be supplemented at the times, and in the detail, that the Commission requests.

**§179-4-14. Reserved.**

**§179-4-15. Restricted Transactions.**

15.1. A licensee or applicant, or an affiliate, key person, or representative of a licensee or applicant, shall not knowingly give, convey, transfer, or enter into a contract to convey or transfer, a direct or indirect interest in the applicant or licensee to any of the following entities during his or her board membership or employment and for a period of four years after the date that his or her board membership or employment terminates:

15.1.a. A member of the Commission;

15.1.b. The Director of the West Virginia Lottery;

15.1.c. ~~A supervisory~~ An employee of the West Virginia Lottery; or

15.1.d. An immediate family member residing in same household of any of the entities listed in subdivisions (a) to (c) of this subsection.

15.2. A licensee or applicant for a license, or an affiliate, key person, or representative of a licensee or applicant, shall not knowingly employ, or enter into a contract for goods or services with, any of the following entities during his or her casino-related employment and for a period of four years after the date that his or her board membership or casino-related employment terminates:

15.2.a. A member of the West Virginia State Lottery Commission;

15.2.b. The Director or ~~a supervisory~~ an employee of the West Virginia Lottery;

15.2.c. An immediate family member residing in the same household of any of the entities listed in subdivisions (a) and (b) of this subsection; or

15.2.d. Any other person whom the Commission determines is, or was in the past year, able to significantly affect, influence, or control any of the entities listed in subdivisions (a) to (c) of this subsection by reason of business, financial, personal, or social association or relationship.

15.3. A licensee or applicant for a license, or an affiliate, key person, or representative of

a licensee or applicant, shall not knowingly give, convey, transfer, or enter into a contract to convey or transfer, a direct or indirect interest in the licensee or applicant for a license to a non-supervisory employee of the West Virginia Lottery, any immediate family member residing in the same household of a non-supervisory employee of the West Virginia Lottery during his or her Lottery employment and for a period of two years after the date his or her Lottery employment terminates, or any other person whom the Commission determines is, or was in the past four years, able to significantly affect, influence, or control a non-supervisory employee by reason of business, financial, personal, or social association or relationship.

15.4. A licensee, applicant, or an affiliate, key person, or representative of a licensee or applicant, shall not knowingly employ, or enter into a contract for goods or services with, any of the following entities during his or her casino-related state police employment and for a period of two years after the date that his or her casino-related state police employment terminates:

15.4.a. A Member of the West Virginia State Police;

15.4.b. A non-supervisory employee of the West Virginia Lottery;

15.4.c. An immediate family member residing in the same household of either of the entities listed in subdivisions (a) and (b) of this subsection; or

15.4.d. Any other person whom the Commission determines is, or was in the past four years, able to significantly affect, influence, or control entities listed in subdivisions (a) and (b) of this subsection by reason of business, financial, personal, or social association or relationship.

15.5. A person may not apply for or be granted a license under the Act if any of the following entities has any direct or indirect interest in the person and the person knows of the interest:

15.5.a. A current member of the West Virginia State Lottery Commission;

15.5.b. The Director of the West Virginia Lottery;

15.5.c. A West Virginia Lottery employee;

15.5.d. An employee of the State Police assigned to the West Virginia Lottery;

15.5.e. An immediate family member residing in the same household of any of the entities listed in subdivisions (a) to (d) of this subsection; or

15.5.f. Any other person whom the Commission determines is, or was in the past year, able to significantly affect, influence, or control the entities listed in subdivisions (a) to (e) of this subsection by reason of business, financial, personal, or social association or relationship.

15.6. A person may not apply for or be granted a license under the Act if any of the

following entities has a financial interest or a direct or indirect pecuniary or ownership interest in the person and less than four years has passed since the date on which the Commission membership or term of a former member, or the employment of the Director or supervisory employee terminated and the person knows of the interest:

15.6.a. A former member of the West Virginia State Lottery Commission;

15.6.b. A former Director or supervisory employee of the West Virginia Lottery;

15.6.c. An immediate family member residing in the same household of any of the following entities listed in subdivisions (a) and (b) of this subsection; or

15.6.d. Any other person whom the Commission determines is, or was in the past year, able to significantly affect, influence, or control the entities listed in subdivisions (a) through (c) of this subsection by reason of business, financial, personal, or social association or relationship.

15.7. A person may not apply for or be granted a license under the Act if any of the following entities has a direct or indirect interest in the person and less than two years has passed since the former employee's employment terminated and the person knows of the interest:

15.7.a. A former non-supervisory employee of the West Virginia Lottery;

15.7.b. A former state police employee formerly assigned to the West Virginia Lottery;

15.7.c. An immediate family member residing in the same household of any of the entities listed in subdivisions (a) through (c) of this subsection; or

15.7.d. Any other person whom the Commission determines is, or was in the past year, able to significantly affect, influence, or control the entities listed in subdivisions (a) to (c) of this subsection by reason of business, financial, personal, or social associations or relationship.

15.8. A person may not apply for or be granted a license under the Act if any of the following entities has a direct or indirect interest in the person and less than two years has passed since the former employee's employment terminated and the person knows of the interest:

15.8.a. A former non-supervisory employee of the West Virginia Lottery;

15.8.b. A former state police employee formerly assigned to the West Virginia Lottery;

15.8.c. An immediate family member residing in the same household of any of the entities listed in subdivisions (a) through (c) of this subsection; or

15.8.d. Any other person whom the Commission determines is, or was in the past year, able to significantly affect, influence, or control the entities listed in subdivisions (a) to (c) of this subsection by reason of business, financial, personal, or social associations or relationship.

15.9. A former Commission member or employee of the West Virginia Lottery may appear before the Commission as a fact witness about actions by the Commission member or employee during his or her tenure as a member of the Commission or employee of the West Virginia Lottery. A licensee, applicant, or the Commission shall not compensate a fact witness for his or her appearance other than by a standard witness fee and reimbursement for travel expenses as established by statute.

15.10. A licensee or an applicant for a license, or an affiliate, key person, or representative of a licensee or applicant for a license, shall not knowingly employ, or enter into any contract for gaming goods or services with a state, local, or federal law enforcement officer.

#### **§179-4-16. Restrictions on Gift-Giving.**

16.1. A licensee or an applicant for a license, or an affiliate, key person, or representative of a licensee or applicant for a license, shall not directly or indirectly give or offer to give any gift, gratuity, benefit, compensation, travel, lodging, food or beverage, or any other thing of value to any of the following entities:

16.1.a. A member of the West Virginia State Lottery Commission;

16.1.b. The Director of the West Virginia Lottery;

16.1.c. An employee of the West Virginia Lottery;

16.1.d. An immediate family member residing in the same household of any of the individuals listed in subdivisions (a) to (c) of this subsection; or

16.1.e. Any other person whom the Commission determines is, or was in the past two years, able to significantly affect, influence, or control the entities listed in subdivisions (a) to (d) of this subsection by reason of business, financial, personal, or social association or relationship.

#### **§179-4-17. Restrictions on the Limited Gaming Facility Licensee Interest in a Supplier Licensee.**

~~17.1. An applicant applying for or holder of the limited gaming facility license shall not own an interest of more than 10% in a supplier licensed under the Act or this rule. A person who has applied for or holds the limited gaming facility license is not prohibited from entering into an agreement for the management of its gambling operations or casino operations with a key person of the applicant or licensee.~~

**§179-4-18. Review of Information at Licensee's or Applicant's Premises; Costs.**

18.1. At the option of the Director, the Director or his or her designee may review, at the premises of the custodian of the information, any information that the Act, this rule, the Director, or his or her designee requires from any of the following entities:

18.1.a. A license applicant;

18.1.b. A licensee;

18.1.c. An affiliate of a license applicant or licensee; and

18.1.d. A person who holds more than a 5% direct or indirect interest in an applicant or licensee.

18.2. If information is reviewed at the premises of the custodian of the information then the license applicant or licensee shall, as soon as practicable, reimburse the Commission for all incremental expenses incurred in performing the review at the premises of the custodian of the information, including travel, food, and lodging. Reimbursement shall be exclusive of all other fees required under the Act and this rule.

**§179-4-19. Reserved.**

**PART 3. LICENSES**

**§179-4-20. Applications.**

20.1. An application for a license under the Act and this rule is a request by the applicant seeking a revocable privilege. The Commission shall grant a license if the applicant meets the licensing requirements of the Act and this rule.

20.2. An applicant for a license under the Act and this rule shall, at all times, have the burden of demonstrating to the Commission, by clear and convincing evidence, that the applicant is eligible, qualified, and suitable to be granted and retain the license for which application is made under the applicable licensing standards and requirements of the Act and this rule.

20.3. A license issued by the Commission under the Act or this rule is a revocable privilege granted by the Commission. A person who holds a license does not acquire, and shall not be considered to acquire, a vested property right or other right, in the license.

20.4. The Commission shall use reasonable efforts to avoid unnecessary publicity concerning information included in the applications and other documents that are or could reasonably be considered sensitive; however, an applicant or licensee shall accept any risk of adverse publicity, public notice, notoriety, embarrassment, criticism, financial loss, or other unfavorable or harmful consequences that may occur in connection with, or as a result of, the application and licensing process or the public disclosure of information submitted to the

Commission with a license application or at the Commission's request under the Act and this rule.

20.5. An applicant or licensee may claim any privilege afforded by the Constitution or laws of the United States or of the state of West Virginia in refusing to answer questions or provide information requested by the Commission. However, a claim of privilege with respect to any testimony or evidence pertaining to the eligibility, qualifications, or suitability of an applicant or licensee to be granted or hold a license under the Act and this rule may constitute cause for denial, suspension, revocation or restriction of the license.

20.6. An applicant and licensee shall:

20.6.a. Notify the Commission of a material change in the information submitted in the license application submitted by the applicant or licensee or a change in circumstance, that may render the applicant or licensee ineligible, unqualified, or unsuitable to hold the license under the licensing standards and requirements of the Act and this rule;

20.6.b. Maintain the applicant's or licensee's eligibility, qualifications, and suitability to be issued and hold the license held or applied for under the Act and this rule; and

20.6.c. Provide any information requested by the Commission relating to licensing or regulation; cooperate with the Commission in investigations, hearings, and enforcement and disciplinary actions; and comply with all conditions, restrictions, requirements, orders, and rulings of the Commission in accordance with the Act and this rule.

20.7. An applicant, licensee or person required to be qualified as part of an application for the issuance of, or a request for renewal of, a license shall furnish fingerprints for a national criminal records check by the Criminal Identification Bureau of the West Virginia State Police and the Federal Bureau of Investigation. The fingerprints shall be furnished by all persons required to be named in the application and shall be accompanied by a signed authorization for the release of information by the Criminal Investigation Bureau and the Federal Bureau of Investigation.

#### **§179-4-21. Classification of Licenses.**

21.1. The Commission may classify an activity to be licensed in addition to, different from, or at a different level than, the following license classifications:

~~21.1.a.~~ 21.1. License to operate a gaming facility. The person who operates a casino gambling operation is required to hold a license to operate a gaming facility;

~~21.1.b.~~ 21.2. Supplier license. Persons who supply equipment, goods, or services ~~valued at over \$50,000 in any twelve consecutive months period~~ to the limited gaming facility licensee that are directly related to or affect gambling operations authorized and regulated under the Act and this rule. There are two different classes of supplier license, as follows:

~~21.1.b.1-21.2.a.~~ Supplier license, level one, for suppliers that qualify as manufacturers under W.Va. Code §29-25-2(y); and

~~21.1.b.2-21.2.b.~~ Supplier license, level two, for all other suppliers;

~~21.1.e.21.3.~~ Occupational license. An individual who is employed by a gaming facility licensee whose work duties are directly related to, or involved in, the gambling operation or performed in a restricted area of the casino or in the gaming area of the casino, or who is a gaming operations manager, a general manager or department manager having oversight or operational responsibility for operation of the gaming facility, or an equivalent, shall hold a valid occupational license that is the level required for his or her position before the individual may perform any of the duties of his or her position. There are ~~3~~ two different classes of occupational license, as follows:

~~21.1.e.1-21.3.a.~~ Occupational license, level ~~1~~ one, for policy-making positions;  
and

~~21.1.e.2-21.3.b.~~ Occupational license, level ~~2~~ two, for other positions.; ~~and~~

~~21.1.e.3.~~ Occupational license, level ~~3.~~

~~21.1.d.21.4.~~ Management services license.

#### **§179-4-22. Fees, Fines, Charges, and Assessments.**

22.1. All fees, fines, charges, and assessments provided for under this rule shall be submitted in a timely manner to the Commission in the form of a certified check, cashier's check, or money order made payable to: "West Virginia Lottery," or in the form of an electronic wire transfer, or by another method of payment that is acceptable to the Commission.

22.2. The license application fee shall be used by the Commission to conduct an appropriate background investigation of the applicant as prescribed by the Commission, the Act, and this rule. The Commission shall not refund any portion of a remitted license application fee. An applicant, or the limited gaming facility licensee in the applicant's behalf, shall submit the following nonrefundable license application fees to the Commission, together with the required application form or forms, for the corresponding license classification to which the fees relate:

22.2.a. The limited gaming facility license: ~~\$25,000.00~~ \$65,000.00;

22.2.b. Supplier licenses: ~~\$5,000.00~~ \$100.00; ~~and~~

22.2.c. Occupational ~~license~~ licenses: ~~\$300.00~~ \$100.00; ~~and~~

~~22.2.d.~~ Management services license: \$100.00

~~22.3.~~ ~~The investigative fee paid by an applicant at the time of submitting an application~~

~~shall be applied to the cost of any investigation relating to the applicant required under this article. The following investigative fees shall be collected:~~

~~22.3.a. From an applicant for a license to operate the gaming facility: \$20,000;~~

~~22.3.b. From an applicant for a license to supply a gaming facility: \$10,000;~~

~~22.3.b.1. If the applicant currently holds a video lottery terminal manufacturer permit under provisions of the Racetrack Video Lottery Act, the \$10,000 investigation fee is waived;~~

~~22.3.c. From an applicant for a license to be employed by the operator of the gaming facility: \$65 non refundable. An occupational license investigative fee shall be paid by the applicant or by the limited gaming facility;~~

~~22.3.d. If the cost of the investigation is less than the stated fee for the investigation in subdivisions (a) and (b) of this subsection that was paid by an applicant, the Commission shall refund the difference to the applicant;~~

~~22.3.e. If the cost of the investigation is greater than the stated fee for the investigation in subdivisions (a) and (b) of this subsection, the Commission shall show cause for the additional cost. The applicant shall pay the additional costs to the extent approved by the Commission, but not to exceed a total investigative fee by license type as follows:~~

~~22.3.e.1. From an applicant for a license to operate a gaming facility: \$40,000; and~~

~~22.3.e.2. From an applicant for a license to supply a gaming facility: \$50,000.~~

~~22.4.22.3. The following license maintenance renewal fees shall be submitted to the Commission by the licensee for each subsequent renewal of the license under the Act and this rule:~~

~~22.4.a.22.3.a. Limited gaming facility license: \$5,000~~

~~22.3.a.1. For the second year that it is licensed it shall pay \$250,000;~~

~~22.3.a.2. For the third year that it is licensed it shall pay \$500,000; and~~

~~22.3.a.3. For every year after the third year that it is licensed it shall pay an amount calculated by determining the annual average gross receipts of the West Virginia pari-mutuel racetracks with table game licenses for the last full fiscal year of adjusted gross receipts available, and dividing that number into the licensed gaming facility operator's adjusted gross receipts for the same full fiscal year of adjusted gross receipts to obtain a percentage, and by multiplying the resulting percentage by \$2,500,000.00. In the event that the calculation results in an amount less than \$500,000, then the limited gaming facility licensee must pay \$500,000. In the event that the calculation results in an amount greater than \$2,500,000.00, then the limited gaming facility licensee must pay \$2,500,000.00;~~

~~22.4.b~~22.3.b. Supplier license: ~~\$5,000.00~~ \$100.00; and

~~22.4.e~~22.3.c. Occupational license: \$100.00; and

~~22.4.e.1.~~ Level 1: ~~\_\_\_\_\_~~ \$100.00;

~~22.4.e.2.~~ Level 2: ~~\_\_\_\_\_~~ \$75.00; and

~~22.4.e.3.~~ Level 3: ~~\_\_\_\_\_~~ \$50.00.

22.3.d. Management services license: \$100.00.

22.4. A supplier license and a management services license each expires at the end of the twelfth month following its initial effective date. For example, if one of the licenses were issued on the fifteenth day of May in one year, it must be renewed before the first day of June in the following year.

**§179-4-23. Persons Required to be Qualified for Issuance and Renewal of Gaming Facility Operator, and Supplier, and Management Services Provider Licenses.**

23.1. The Commission shall not issue or renew the license of a gaming facility license or supplier unless the individual qualifications of every person required by the Act and this rule to qualify, as part of the application or request for the issuance or renewal of the license, shall have first been determined by the Commission eligible, qualified, and suitable in accordance with the relevant licensing standards set forth in the Act and this rule.

23.2. The following persons are required to qualify as part of the application for the issuance, or request for renewal, of the limited gaming facility license, ~~or a supplier license, or a management services provider license:~~

23.2.a. If the person who makes application for a the license of a gaming facility license, or supplier license or management services provider is a person whose stock, equity interest, or ownership interest is publicly traded and regulated by the Securities and Exchange Commission, each of the applicant's key persons;

23.2.b. If the person who makes application for the license of a limited gaming facility license, or a supplier license or management services provider is not a person whose stock is publicly traded and regulated by the securities and exchange Commission, each of the applicant's key persons and each person, other than a publicly traded corporation and its 5% or less shareholders, that has a combined direct, indirect, or attributed interest of ~~1%~~ 5% or more in the applicant; and

23.2.c. A person who is required to apply for the license of a limited gaming facility license, or a supplier or management services provider license under the Act and this rule.

23.3. The Commission may at any time require a person that applies for or holds the limited gaming facility license or a supplier license to establish the qualifications of any other affiliate, investor, creditor, employee, agent, or representative of the applicant or licensee or any other person that is connected, related, or associated with the applicant whom the Commission determines must be qualified under the Act and this rule.

23.4. A person required to qualify as part of the application or request for issuance or renewal of the limited gaming facility license or a supplier license shall complete and file, with the Commission, an application or annual renewal report and the required disclosure forms in the manner and form prescribed by the Commission.

23.5. A person that applies for or holds the limited gaming facility license or a supplier license shall ensure that all persons who are required by the Act and this rule to establish their qualifications as part of the applicant's application for the issuance, or the licensee's maintenance or renewal, of the limited gaming facility license or a supplier license have filed, with the Commission, all required applications, reports, and disclosure forms in the manner and form prescribed by the Commission.

#### **§179-4-24. Limited Gaming Facility Licensing Procedures.**

24.1. Except to the extent the Commission may require different or additional procedures, an applicant for a limited gaming facility license ~~is subject to~~ shall provide all of the following ~~procedures~~ documents before licensing:

24.1.a. Application;

24.1.b. Payment of application fee;

24.1.c. The canvass of votes of the local option election proving passage of casino gaming at the historic resort hotel; and

~~24.1.b.~~ 24.1.d. Fingerprint images for the background investigation by the Commission;

~~24.1.e. Action and decision by the Commission on the application; and~~

~~24.1.d. Issuance of the limited gaming facility license.~~

24.2 The Commission shall review these documents and the analysis of the documents and issue or decline to issue the license, or may require that the applicant provide additional information.

#### **§179-4-25. Limited Gaming Facility License Application.**

25.1. A person applying for the limited gaming facility license and a person required to

be qualified as part of the application shall complete and submit an application and disclosure form or forms in the manner and form prescribed by the Commission. An applicant shall make the application and disclosure form or forms under oath on forms provided by the Commission. The application and disclosure form or forms shall contain all information required by the Commission.

25.2. The limited gaming facility license application procedures are as follows:

25.2.a. The Commission shall use reasonable efforts to avoid unnecessary publicity concerning information included in the applications and other documents that are or could reasonably be considered sensitive, however, upon application, an applicant shall assume and accept, in writing, under oath, all risk of adverse publicity, notoriety, embarrassment, criticism, financial loss, or other unfavorable or harmful consequences that may occur in connection with the application process or the public disclosure of information submitted with the application and disclosure form or forms.

25.2.b. Upon application, an applicant shall also expressly waive and give up, in writing, under oath, all claims for damages that may result from the application and licensing process.

25.2.c. Upon application, an applicant shall also consent, in writing, under oath, to being subject to the inspections, investigations, audits, searches, and seizures under section ~~4a(1)(e)(i) to (v)~~ eighteen of the Act for the duration of the limited gaming facility license for which application is made.

25.2.d. Upon applying for, or while holding, the limited gaming facility license under the Act and this rule, an applicant or licensee shall also authorize and consent, in writing, under oath, to release and disclose, to the Commission and its authorized representatives and agents, all otherwise confidential records that the Commission requests that are in the possession or control of the applicant or a third party, including, without limitation, tax records, financial records, business records or other records pertaining to the applicant or licensee held by a federal, state, or local governmental agency or by a credit bureau or financial institution.

25.2.e. The Commission shall conduct a background investigation of an applicant. The Commission shall also use the information provided in the application and disclosure form or forms as a basis for a background investigation, which the Commission shall conduct on each applicant, and to evaluate and determine the eligibility, qualifications, and suitability of the applicant to receive the limited gaming license under the licensing standards and criteria provided in the Act and this rule. A misrepresentation or omission in the application is cause for the denial, suspension, restriction, or revocation of the limited gaming license by the Commission.

25.2.f. An applicant shall provide the name, address, and telephone number of a representative to act as a liaison to the Commission ~~and to West Virginia State Police background investigators~~. The applicant shall facilitate, assist, and cooperate with the Commission ~~and the state police~~ in ~~their~~ its conduct of background investigations of the

applicant under the Act and this rule.

25.2.g. The Commission shall not issue or renew a limited gaming license unless the applicant and each person required to be qualified as part of the application for issuance or request for renewal of the license has completed and filed, with the Commission, all required applications, license renewal forms, and disclosure forms in the manner and form prescribed by the Commission and provides all information, documentation, assurances, waivers and releases required by the Act and this rule.

25.2.h. An applicant shall file the required application forms before the expiration of deadlines established and published by the Commission.

25.2.i. An applicant is under a continuing duty to disclose any material or substantive changes in the information or documentation provided in or with the application, renewal, and disclosure forms submitted to the Commission.

25.2.j. A person applying for the limited gaming facility license shall request an amendment to its application if it knows or should have known that there has been a change in any of the following:

25.2.j.1. A change of the applicant's key persons or the key persons of its holding companies or affiliates that have control of the applicant;

25.2.j.2. A change in the type of business organization or entity;

25.2.j.3. An adverse change of more than 2 percentage points in capitalization or debt to equity ratio;

25.2.j.4. A change of investors or debt holders, or both; or

25.2.j.5. A change of the source of funds.

25.2.k. A limited gaming license application may be withdrawn upon written notice to the Commission before Commission action on the application ~~if all background investigation costs of the Commission have been paid in full by the applicant.~~ The application fee shall not be refunded to a withdrawing applicant.

~~25.2.l. If a limited gaming license application is withdrawn, then the person who made the application for the license may not reapply for the limited gaming facility license within one year from the date the withdrawal was granted unless the Commission grants leave to reapply at an earlier date.~~

~~25.2.m.~~ 25.2.l. The Commission may allow information, documents, or other materials submitted by an applicant in a withdrawn application to be incorporated by reference into a subsequent application.

25.3. The limited gaming license application shall require the person applying for the license, and each person who has control of the applicant to be qualified as part of the application, to submit all of the information and documentation required in this subsection and its subdivisions on forms prescribed by the Commission. Persons who are considered to have control of an applicant including: (1) Each person associated with a corporate applicant or the immediate parent company of the applicant (but not including a bank or other licensed lending institution which holds a mortgage or other lien acquired in the ordinary course of business) who has the ability to control the activities of the corporate applicant or elect a majority of the board of directors of that corporation; (2) Each person associated with a non-corporate applicant who directly or indirectly holds any beneficial or proprietary interest in the applicant or who the Commission determines to have the ability to control the applicant; and (3) Key personnel of an applicant, including any executive, employee or agent, having the power to exercise significant influence over decisions concerning any part of the applicant's business operation, must provide the following information to the Commission:-

25.3.a. Disclosure forms, in the manner and form prescribed by the Commission, for the applicant and each person required to be qualified as part of the applicant's application under the Act and this rule. The forms shall contain the information, documentation, assurances, waivers and releases prescribed in the Act and this rule;

25.3.b. The name, address, and telephone number of the applicant's primary contact person and registered agent authorized to accept notices, subpoenas, summons, and other legal documents from the Commission on behalf of the applicant;

25.3.c. The names, addresses, phone numbers, dates of birth, social security numbers, fingerprints, photographs, and other personal, business, and financial background information relating to the identification, character, reputation, integrity, business probity, ability and experience, financial means, experience, responsibility, and record of law abidance of all of the following persons to the extent known and identifiable by the person applying for the limited gaming facility license:

25.3.c.1. The person that applies for the limited gaming facility license;

25.3.c.2. The key persons of the person applying for the license;

25.3.c.3. The key persons of the immediate parent company who has control of the person applying for the license;

25.3.c.4. Other persons who are required to be qualified as part of the application; and

25.3.c.5. Civil litigation and criminal history of all of the following entities to the extent known and identifiable by the person applying for the limited gaming facility license:

25.3.c.5.A. The person applying for the limited gaming facility

license;

25.3.c.5.B. The key persons of the applicant;

25.3.c.5.C. The key persons of the immediate parent company who has control of the person applying for the license; and

25.3.c.5.D. Other persons who are required to be qualified as part of application;

25.3.d. Other information and documentation as may be required by the Commission to establish and determine the identity, eligibility, suitability, and qualification of the applicant or any other person required to be qualified, as part of the application, as a financial source under the Act or this rule;

25.3.e. Other information and documentation as may be required by the Commission to establish and determine the financial stability, integrity, and responsibility of the person applying for the limited gaming license and a holding company, affiliate, or intermediary company that is required to be qualified as part of the application under the Act and this rule and to establish and determine the integrity of the applicant's financial sources and adequacy of the applicant's financial resources to develop, construct, renovate, maintain, and operate the proposed casino in accordance with the requirements of the Act and this rule. The information shall include, without limitation, a description of the capitalization for the proposed limited gaming facility and the amount and source of all debt and equity involved in the capitalization for the proposed limited gaming facility.

25.3.f. Other information and documentation as may be required by the Commission to establish and determine sufficient business ability on the part of the person applying for the limited gaming license and the applicant's key persons to properly manage and operate the proposed limited gaming operation in a successful and efficient manner and in accordance with the requirements of its certified development agreement and the Act and this rule;

25.3.g. Other information and documentation as may be required by the Commission concerning the proposed site of the applicant's proposed limited gaming facility;

25.3.h. Other information and documentation as may be required by the Commission concerning the proposed gaming room, including, without limitation, floor plans showing the location of each gaming point and device, and the location and coverage of all closed circuit television cameras;

25.3.i. Other information and documentation as may be required by the Commission concerning the applicant's construction or renovation program for the applicant's proposed casino, infrastructure, and support facilities, including, without limitation, all of the following information and documentation:

25.3.i.1. A certified copy of the County Commission's canvass of votes pertaining to the local option election required by section seven of the Act;

25.3.i.2. An affidavit signed by the person applying for the license that the applicant has no outstanding un-appealed delinquencies of taxes and fees due the State of West Virginia;

25.3.i.3. The estimated construction time and anticipated date of opening;

25.3.i.4. The status of all required governmental and regulatory permits and approvals and any conditions of all required governmental and regulatory permits and approvals;

25.3.i.5. Sufficient documentation that the applicant is the owner or wholly owned by the owner of an existing historic resort hotel within the meaning of the Act; and

25.3.i.6. The architect, general contractor, construction manager, and primary subcontractors, environmental and traffic consultants, and interior designer used or to be used on the construction or renovation project.

25.3.j. Other information and documentation as may be required by the Commission concerning the organizational and operational plans for the proposed limited gaming operation, including, without limitation, the recruitment, employment, supervision, and training of employees, management contracts, and leases;

25.3.k. Other information and documentation as may be required by the Commission concerning the applicant's plans for providing food and beverage and other concessions in the gaming area of the historic resort hotel, the status of all relevant required governmental and regulatory permits and approvals, and any conditions of all relevant required governmental and regulatory permits and approvals;

25.3.l. The names, business addresses, telephone numbers, and principal contact persons of the applicant's identified suppliers of gaming-related equipment, goods, and services used in the gaming areas of the historic resort hotel regardless of the value of purchases from each supplier;

25.3.m. Other information and documentation as may be required by the Commission concerning the applicant's plans and procedures for extending credit for gambling and the collection of gambling-related debts;

25.3.n. Other information and documentation as may be required by the Commission concerning the applicant's plans and procedures for player tracking or slot management systems;

25.3.o. Other information and documentation as may be required by the

Commission concerning all of the following:

25.3.o.1. The applicant's internal controls;

25.3.o.2. Accounting policies and procedures;

25.3.o.3. Security and surveillance; and

25.3.o.4. Other policies and procedures related to the integrity and protection of its assets and proposed gambling operation and the safety of its patrons and the public;

25.3.p. Other information and documentation as may be required by the Commission concerning any agreements, covenants, or options by the person applying for the limited gaming license or the key persons of the applicant or any holding company or affiliate that has control of the applicant to lease or purchase the actual or proposed site of the applicant's proposed casino;

25.3.q. Other information and documentation as may be required by the Commission regarding the types of insurance the applicant has or will obtain, including, without limitation, the following types of insurance:

25.3.q.1. Liability;

25.3.q.2. Casualty;

25.3.q.3. Fire;

25.3.q.4. Theft; and

25.3.q.5. Worker's compensation.

25.3.r. Other confidential information and documentation as may be required by the Commission from the applicant and other persons required to be qualified as part of the application, including, without limitation, the following:

25.3.r.1. Confidential business and financial information;

25.3.r.2. Confidential taxpayer information;

25.3.r.3. Confidential trade secrets related to the conduct of the proposed gambling operation, including, without limitation, all of the following with respect to the applicant:

25.3.r.3.A. Security and surveillance plans;

25.3.r.3.B. Internal control procedures;

25.3.r.3.C. Salary structure and payroll;

25.3.r.3.D. Market research and feasibility studies; and

25.3.r.3.E. Advertising, marketing, and promotional plans; and

25.3.r.4. Confidential personal information.

25.3.s. An applicant shall submit information or documentation required by the Commission which is exempt from public disclosure under the West Virginia Freedom of Information Act [W. Va. Code §29B-1-4] or which the applicant or filer wishes to be treated as confidential as a separate part of the application under a cover clearly labeled "Confidential Information." An applicant shall submit the information or documentation in the manner and form prescribed by the Commission;

25.3.t. All required written waivers, assurances, releases and affidavits, which an applicant shall submit in the manner and form prescribed by the Commission;

25.3.u. A statement listing the name, position or title, and business address and telephone number of each individual who completed or prepared any part of the application for the applicant;

~~25.3.v. The \$25,000 application fee required by the Act;~~

~~25.3.w. The \$20,000 investigative fee required by the Act;~~

~~25.3.x-25.3.v.~~ The \$5 million A surety bond required by the Act in an amount to be determined by the Commission; and

~~25.3.y-25.3.w.~~ Other information or documentation that the Commission may consider material and necessary to establish the identification, eligibility, suitability, and qualification of the applicant or any other person required to be qualified or licensed as part of the application under the licensing standards and requirements of the Act and this rule.

25.4. Upon initial licensing and subsequent annual re-licensing, the applicant for the limited gaming facility operator licensee shall provide the Commission with a copy of the contract it holds with the historic resort hotel that permits it to operate the limited gaming facility on the existing historic resort hotel premises, if the limited gaming facility operator is not the owner of the historic resort hotel.

#### **§179-4-26. Issuance of a Limited Gaming License.**

26.1. The Director or his or her designee shall conduct a thorough review of the application submitted by the applicant, of the background investigation of persons involved with

the applicant and the fiscal and physical qualifications of the applicant and its facilities, and report to the Commission, in writing, whether the applicant has satisfactorily complied with the conditions and requirements of the Commission, the Act, and this rule for granting and issuing a limited gaming license to the applicant. The Director shall ensure that a copy of his or her written report to the Commission is served on the applicant.

26.2. Upon receipt of the Director's report, the Commission shall docket the issue for its next regular ~~of~~ or special meeting for purposes of taking further evidence and rendering its final decision on the application.

26.3. The Commission shall place restrictions and conditions on the limited gaming facility license, including, but not limited to, all of the following:

26.3.a. The licensee shall maintain its required bond in accordance with the Act;

26.3.b. The licensee's gambling operation shall undergo, and successfully complete, a sufficient number and type of practice gambling operations to ensure that the gambling operation is conducted in compliance with the Act and this rule;

~~26.3.c. The licensee shall pay the required annual fee; and~~

~~26.3.e.~~ 26.3.c. The licensee shall satisfactorily complete or comply with any incomplete or non-complying aspects of its proposed casino, support facilities, and casino and gambling operations within specified time frames established by the Commission.

#### **§179-4-27. Payment of the Annual License ~~Maintenance~~ Renewal Fee.**

~~27.1.~~ The licensed gaming facility operator shall pay the annual license ~~maintenance~~ renewal fee required by W.Va. Code §29-25-9(1) ~~of five thousand dollars~~ by electronic funds transfer or by check. In either case, the licensee's fee payment must be received by the West Virginia Lottery on or before the anniversary date of the issuance of the license preceding the start of the license year.

#### **§179-4-28. Limited Gaming Facility License Renewal.**

~~28.1. A license expires on the fifth anniversary of its effective date, unless the license is renewed for additional five-year terms.~~

~~28.2.~~ 28.1. At least two months before a license expires, the Commission shall send to the licensee, by mail to the last known address, a renewal application form and notice that states:

~~28.2.a.~~ 28.1.a. The date on which the current license expires; and

~~28.2.b.~~ 28.1.b. The date by which the Commission must receive the renewal application for the renewal to be issued and mailed before the existing license expires; ~~and.~~

~~28.2.e. The renewal fee is \$25,000.~~

~~28.3. 28.2.~~ Before the license expires the licensee may renew it ~~for successive additional five-year terms~~ if the licensee:

~~28.3.a. 28.2.a.~~ Continues to meet all qualification requirements for a limited gaming license;

~~28.3.b. 28.2.b.~~ Pays to the Commission the ~~\$25,000~~ appropriate license renewal fee as determined by the Commission in its application of W.Va. Code §29-25-9(1);

~~28.3.e. 28.2.c.~~ Submits to the Commission a renewal application in the form that the Commission requires accompanied by satisfactory evidence of compliance with any additional requirements set by the Commission for license renewal; and

~~28.3.d. 28.2.d.~~ Submits to the Commission evidence satisfactory to the Commission of the gaming facility operator's compliance with the plan described in subsection-b, section ~~nine-b~~ nine of the Act to create at least one hundred full time equivalent positions with a salary and benefit package commensurate with existing employees at the historic resort hotel. Notwithstanding any provision of subsection-d, section ~~nine-d~~ nine of the Act, the failure to substantially comply with the plan, as determined by the Commission, may constitute grounds for the denial of the renewal of the license.

~~28.4. 28.3.~~ The Commission shall renew the license if the licensee meets the requirements of this section.

**§179-4-29. Limited Gaming Facility Licensee's Duty to Remain Eligible, Qualified and Suitable; Duty to Disclose Material Changes.**

29.1. To assure compliance with the Act and this rule, the Commission shall continue its investigation throughout the period of licensure for purposes of monitoring and determining whether the licensee is eligible and suitable to hold the license.

29.2. A limited gaming facility licensee has a continuing duty to remain eligible, qualified, and suitable to hold the limited gaming license under the licensing standards, criteria, and requirements of the Act and this rule.

29.3. Issuance of the limited gaming facility license does not create a property right. Issuance of the license instead gives to the holder a revocable privilege granted by the State of West Virginia conditioned upon the holder's continuing eligibility, qualifications, and suitability to hold the license under the Act and this rule.

29.4. A limited gaming facility licensee has a continuing duty to notify promptly the Commission, in writing, without undue delay, of any material change in the information provided in its application or renewal report or reports and any other change in circumstances reasonably related to its eligibility, qualifications, and suitability to be issued, or continue

holding, a limited gaming license under the licensing standards, criteria, and requirements of the Act and this rule.

**§179-4-30. Required Notification of Anticipated or Actual Changes in Directors, Partners, and Officers of the Limited Gaming Facility Licensee and its Immediate Parent Company, if any.**

30.1. A person that applies for or holds a limited gaming facility license and the applicant's immediate parent company, if any, shall notify the Commission, in writing, as soon as is practicable, of the appointment, nomination, election, resignation, incapacitation, or death of any member of, or partner in, its board of directors or partnership or of any officer or key person who is directly involved in the management or conduct of gambling operations in West Virginia.

30.2. In the event that the applicant or licensee or any controlling person of the applicant or licensee is a publicly traded corporation, then information otherwise required to be furnished by the license with respect to stockholders, directors and executive officers of the publicly traded corporation shall be limited to information concerning only those executive officers of the publicly traded corporation whose ongoing and regular responsibilities relate or are expected to relate directly to the operation or oversight of the gaming facility. ~~“Publicly traded corporation” means any corporation or other legal entity except a natural person which has one or more classes of securities registered pursuant to section twelve of the Securities Exchange Act of 1934, as amended (15 U.S.C. §78), or is an issuer subject to section fifteen d of that act.~~

**§179-4-31. Notification of New Financial Sources Required.**

31.1. An applicant or a limited gaming facility licensee, or any holding company, affiliate, or person who has control of a person that applies for or holds a limited gaming facility license shall notify the Commission, in writing, as soon as practicable, if it intends to enter into a transaction related in any way to the development and operation of the West Virginia limited gaming facility that may result in any new financial backers, investors, mortgages, bondholders, or holders of indentures, notes, or other evidences of indebtedness of the applicant or licensee.

31.2. In the event that the applicant or licensee or any controlling person of the applicant or licensee is a publicly traded corporation, then information otherwise required to be furnished by the license with respect to stockholders, directors and executive officers of the publicly traded corporation shall be limited to information concerning only those executive officers of the publicly traced corporation whose ongoing and regular responsibilities relate or are expected to relate directly to the operation or oversight of the limited gaming facility. ~~“Publicly traded corporation” means any corporation or other legal entity except a natural person which has one or more classes of securities registered pursuant to section twelve of the Securities Exchange Act of 1934, as amended (15 U.S.C. §78), or is an issues subject to section fifteen d of that act.~~

**§179-4-32. Notification by Publicly Traded Applicants, Licensees, or Holding Companies Required.**

32.1. A publicly traded company that applies for or holds a limited gaming license or a publicly traded holding company or affiliate that has control of a limited gaming license applicant or licensee shall notify the Commission, as soon as practicable after it becomes aware that, with regard to any the publicly traded company, any person or individual has beneficially acquired any of the following:

32.1.a. The ability to control the publicly traded applicant or licensee or the publicly traded holding company or affiliate that has control of the limited gaming facility license applicant or licensee; or

32.1.b. The ability to elect one or more directors of the publicly traded applicant or licensee or of the publicly traded holding company or affiliate that has control of the limited gaming facility license applicant or licensee. To the extent known by the applicant or licensee, the required notification shall include, without limitation, the name, business address, phone number, and other personal identification information for each person or individual.

32.2. If a publicly traded limited gaming license applicant or licensee, publicly traded holding company, or a limited gaming license applicant or licensee either files or is served with any schedule 13D, 13G, or 13F filing under the Securities Exchange Act of 1934, 15 U.S.C. § 78 et seq., copies of the filing shall be submitted to the Commission by the publicly traded limited gaming facility license applicant, licensee, or holding company within 10 business days after receipt or filing.

**§179-4-33. Qualification of New Directors, Officers, or Other Key Persons.**

33.1. An individual required to be qualified or licensed under the Act or this rule by virtue of his or her position with a West Virginia limited gaming facility licensee shall not perform any duties or exercise any powers of the position related to West Virginia limited gaming facility operations until he or she has been determined to be qualified or otherwise authorized by the Commission, under the Act and this rule.

**§179-4-34. Qualification of New Directors and Officers of Holding Company.**

34.1. A proposed new director, partner, officer, or key person required to be qualified or licensed under the Act or this rule by virtue of his or her position the immediate parent company who has control of a West Virginia limited gaming facility license applicant or licensee shall not perform any duties or exercise any powers of the position related to West Virginia limited gaming facility operations until he or she has been determined to be qualified or otherwise authorized by the Commission, under the Act and this rule.

~~§§179-4-35 through 39~~ §§179-4-35 through 37— Reserved.

**§179-4-38. Implicit Nullification of W.Va. Code §29-25-15.**

38.1. Section fifteen, article twenty-five, chapter twenty-nine of the West Virginia Code was inadvertently left un-repealed by the 2009 Regular Session of the West Virginia Legislature.

and shall henceforth be regarded as *de facto* null and void, and superseded by any conflicting language in the code.

38.2. It is the opinion of the Commission that it was the intent of the 2009 Regular Session of the West Virginia Legislature that the amendment and reenactment of sections nine, eleven, and twelve of article twenty-five, chapter twenty-nine of the West Virginia Code is controlling law in the determination and application of:

38.2.a. Licensing fees for operator, supplier, and occupational licenses at the limited gaming facility; and

38.2.b. Frequency of licensing for operator, supplier, and occupational licenses at the limited gaming facility, which shall be annual.

**§179-4-39. Notice of License Renewal.**

At least sixty days before a license expires, the commission shall send to the licensee, by mail to the last known address, a renewal application form and notice that states:

39.1. The date on which the current license expires;

39.2. The date by which the commission must receive the renewal application for the renewal to be issued and mailed before the existing license expires; and

39.3. The amount of the renewal fee.

**§179-4-40. Supplier License Required to Provide Gaming-Related Devices, Supplies and/or Services.**

~~40.1. When a person will supply or provide a limited gaming facility with gaming devices, gaming supplies or services valued at more than \$50,000 in any twelve consecutive months which directly affect the play and results of casino and video lottery games authorized, conducted, and played under the Act and this rule, the person shall hold a supplier's license. In determining whether a person is qualified to be licensed as a supplier under this rule, the Commission shall consider, without limitation, whether the person meets one or more of the following criteria:~~

~~40.1.a. The person manufactures, supplies, or distributes devices, machines, equipment, items or articles:~~

~~40.1.a.1. Are specifically designed for use in the conduct of gaming;~~

~~40.1.a.2. Are needed to conduct gaming;~~

~~40.1.a.3. Have the capacity to affect the outcome of the play of a gambling game; or~~

~~40.1.a.4. Have the capacity to affect the calculation, storage, collection, or control of gross receipts;~~

~~40.1.b. The person services or repairs electronic or live gambling devices, machines, equipment, items, or articles used in gaming;~~

~~40.1.c. The person provides services directly related to the operation, security, surveillance, regulation, or management of gaming in the limited gaming facility; or~~

~~40.1.d. The person provides other goods or services determined by the Commission to be so used in, or incident to, the operation of casino or video lottery gaming that the person must be licensed as a supplier to protect the public and enhance the credibility and integrity of gaming in West Virginia;~~

40.2. The two different classes of supplier licenses that a supplier may hold are as follows:

40.2.a. Supplier license, level one, for suppliers that qualify as manufacturers under W.Va. Code §29-25-2(y); and

40.2.b. Supplier license, level two.

40.3. In determining whether a person is qualified to be licensed as a level one supplier under this rule, the Commission shall consider, without limitation, whether:

40.3.a. The person engages in the business of designing, building, constructing, assembling, or manufacturing video lottery terminals, the electronic components of the video lottery terminals, the random number generator of the video lottery terminals, or the cabinet in which it is housed;

40.3.b. The person's product is intended for sale, lease or other assignment to the limited gaming facility; and

40.3.c. The person contracts directly with the limited gaming facility licensee for the sale, lease, or other assignment of the product to the limited gaming facility licensee.

40.4. Level one suppliers shall:

40.4.a. Manufacture terminals and associated equipment for placement in this state in accordance with the specifications and procedures specified in sections five and six, article twenty-two-a, chapter twenty-nine of the West Virginia Code;

40.4.b. Manufacture terminals and associated equipment to ensure timely delivery to the limited gaming facility licensee;

40.4.c. Maintain and provide an inventory of spare parts to assure the timely

repair and continuous operation of licensed video lottery terminals intended for placement at the limited gaming facility;

40.4.d. Provide to the limited gaming facility licensee and permitted service technicians technical assistance and training in the service and repair of video lottery terminals and associated equipment so as to assure the continuous authorized operation and play of such video lottery terminals;

40.4.e. Obtain certification of compliance under the provisions of part fifteen of the federal communication commission rules for all video lottery terminals placed in this state; and

40.4.f. Transport all video lottery terminals into this state in accordance with section fourteen, article twenty-two-a, chapter twenty-nine of the West Virginia Code.

40.5. The commission shall provide level one suppliers, or applicants applying for a level one supplier licensee, the protocol documentation data necessary to enable the respective level one supplier's video lottery terminals to communicate with the commission central computer for transmitting auditing program information and for activation and disabling of video lottery terminals.

40.6. In determining whether a person is qualified to be licensed as a level two supplier under this rule, the Commission shall consider, without limitation, whether the person meets one or more of the following criteria:

40.6.a. The person manufactures, supplies, distributes or services equipment, items or articles specifically designed for use for the conduct of gaming as it relates to West Virginia Lottery table games, including, but not limited to, a person who manufactures, supplies, distributes, services, or repairs cards, dice, gaming chips, prize tokens, drop boxes, and credit voucher machines;

40.6.b. The person provides services directly related to the operation, security, surveillance, regulation, or management of gaming in the limited gaming facility; or

40.6.c. The person provides other goods or services determined by the Commission to be so used in, or indicent to, the operation of West Virginia Lottery table games and video lottery that the person must be licensed as a supplier to protect the public and enhance the credibility and integrity of gaming in West Virginia, and the person is not already required to be licensed as a level one supplier.

~~40.2. The following persons shall be licensed under the criteria specified in subdivisions 40.1a through 40.1.e of this rule:~~

~~40.2.a. A manufacturer, supplier, distributor, servicer, or repairer of any of the following:~~

~~40.2.a.1. Video lottery terminals and associated equipment;~~

- ~~40.2.a.2. Cards;~~
- ~~40.2.a.3. Dice;~~
- ~~40.2.a.4. Gaming chips;~~
- ~~40.2.a.5. Gaming plaques;~~
- ~~40.2.a.6. Tokens used in video lottery terminals;~~
- ~~40.2.a.7. Prize tokens;~~
- ~~40.2.a.8. Dealing shoes;~~
- ~~40.2.a.9. Drop boxes;~~
- ~~40.2.a.10. Computerized gaming monitoring systems;~~
- ~~40.2.a.11. Bill exchangers;~~
- ~~40.2.a.12. Credit voucher machines; and~~
- ~~40.2.a.13. Other devices, machines, equipment, items, or articles used in gaming; and~~
- ~~40.2.b. A provider of casino surveillance and/or security systems and services.~~

**§179-4-41. Supplier's License Application.**

41.1. To qualify for a supplier license, an applicant shall meet the requirements of this rule. Each applicant who is an individual who is a controlling person of an applicant that is not an individual shall be of good moral character and reputation, and shall have the necessary experience and financial ability to successfully carry out the functions of a gaming facility supplier. The Commission may adopt rules establishing additional requirements for a gaming facility supplier.

41.2. An applicant for a license to supply gaming devices, equipment and supplies to a gaming facility shall demonstrate that the gaming devices, equipment and supplies that the applicant plans to sell or lease to the licensed operator of the gaming facility, conform or will conform to standards established by rules of the Commission and applicable state law.

41.3. A person applying for a supplier's license and a person required to be qualified as part of the application shall complete and submit application and disclosure forms in the manner and form prescribed by the Commission. The application and disclosure forms shall be made under oath on prescribed forms provided by the Commission and shall contain all information prescribed and required by the Commission.

41.4. Application procedures for a supplier's license are as follows:

41.4.a. The Commission shall use reasonable efforts to avoid unnecessary publicity concerning information included in the applications and other documents that are or could reasonably be considered sensitive. However, upon application, an applicant shall assume and accept, in writing, under oath, all risk of adverse publicity, notoriety, embarrassment, criticism, financial loss, or other unfavorable or harmful consequences that may occur in connection with the application process or the public disclosure of information submitted with the application.

41.4.b. Upon application, an applicant shall also expressly waive and give up, in writing, under oath, all claims for damages that may result from the application and licensing process.

41.4.c. Upon application, an applicant shall also consent, in writing, under oath, to being subject to the inspections, investigations, audits, searches, and seizures for the duration of the supplier's license for which application is made, if the license is issued.

41.4.d. Upon application, an applicant shall also authorize and consent, in writing, under oath, to release and disclose to the Commission and its authorized representatives and agents all otherwise confidential records of the applicant that the Commission requests from the applicant or from third parties, including, without limitation, tax records and financial records held by a federal, state, or local governmental agency, a credit bureau, or a financial institution while applying for, or while holding, a supplier's license under the Act and this rule.

41.4.e. The Commission shall use the information provided in the prescribed application and disclosure form as a basis for an appropriate background investigation, which the Commission shall conduct on each applicant, and for evaluating and determining the eligibility, qualifications, and suitability of the applicant to receive the license for which application is made. The Commission shall make the evaluation and determination under the licensing standards and criteria provided in the Act and rules of the Commission. A misrepresentation or omission in the application is cause for denial, suspension, restriction, or revocation of a license by the Commission.

41.4.f. A person applying for a supplier license shall provide the name, address, and telephone number of a representative to act as a liaison to the Commission and to West Virginia State Police and West Virginia Lottery Security background investigators, and shall facilitate, assist, and cooperate with the Commission, the State Police and West Virginia Lottery Security in their conduct of background investigations under the Act and this rule.

41.4.g. The Commission shall not issue a supplier's license or renewal license unless the person applying for the license, and each person required to be qualified as part of the application for issuance or renewal of the license, has completed and filed with the Commission all required applications, license renewal reports and disclosure forms in the manner and form prescribed by the Commission, has provided all information, documentation, assurances,

waivers, and releases, and has paid the fees required by the Act and this rule.

41.4.h. An applicant shall file all required application forms before the expiration of deadlines established and published by the Commission.

41.4.i. An applicant is under a continuing duty to disclose any material changes in the information or documentation provided in or with the application, renewal, and disclosure forms submitted to the Commission.

41.4.j. A person applying for a supplier license shall request amendment of its application when it knows, or should have known, that there has been a change in any of the following:

41.4.j.1. The applicant's key persons or the key persons of any holding company or affiliate that has control of the applicant;

41.4.j.2. The type of business organization or entity;

41.4.j.3. A holding company or affiliate;

41.4.j.4. A change of more than a 5% in the capitalization or a 1% change in the debt-to-equity ratio;

41.4.j.5. The investors or debt holders, or both; or

41.4.j.6. A source of funds.

41.4.k. A publicly traded corporation shall be considered to have complied with this rule if it has complied with the reporting requirements provided by section twelve of the Securities and Exchange Act of 1934, as amended (15 U.S.C. §78).

41.4.l. A supplier's license application may be withdrawn upon written notice to the Commission before Commission action on the application if all background investigation costs of the Commission have been paid in full by the person applying for a supplier license.

~~41.4.m. If a supplier's license application is withdrawn, then the person who made the application for the license may not reapply for a license within one year from the date withdrawal was granted without leave of the Commission.~~

~~41.4.n.~~ 41.4.m. The Commission may allow information, documents, or other materials submitted by an applicant in a withdrawn application to be incorporated by reference into a subsequent application.

~~41.4.o. The Commission shall not process an application for a supplier's license unless the person making the application has a written agreement with, or written statement of intent from, the limited gaming licensee or a limited gaming license applicant providing or~~

~~stating that the applicant will be supplying certain types of goods and services to the limited gaming facility if the gaming facility licensee will expend more than fifty thousand dollars annually with the applicant.~~

41.5. A supplier's license application shall require that the person applying for the license and a person required to be qualified as part of the application submit all of the following information and documentation on forms prescribed by the Commission:

41.5.a. The name of the person applying for a supplier license and any holding company or affiliate that has control of the applicant and the person's, company's, or affiliate's respective business address, phone number, federal identification number, and West Virginia taxpayer identification number;

41.5.b. To the extent known and identified by the applicant, the identity and home and business addresses and phone numbers of the key persons of the person applying for a supplier license, of a holding company or affiliate that has control of the applicant, and of any other person required to be qualified as part of the applicant's application under the Act and this rule; and

41.5.c. Applications and disclosure forms completed by the person applying for a supplier license and by the key persons of the applicant, a holding company or affiliate that has control of the applicant, and any other identified person required to be qualified as part of that applicant's application. The applications and disclosure forms shall contain all information and documentation that the Commission requires to determine the eligibility, qualifications, and suitability of each person under section thirteen of the Act, including, without limitation, all of the following information and documentation for each person:

41.5.c.1. Copies of all filings which are required by the Securities and Exchange Commission and which are issued and filed by the applicant, a holding company, or an affiliate that has control of the applicant during the preceding fiscal year;

41.5.c.2. All of the following properly executed documents in the manner and form prescribed by the Commission:

41.5.c.2.A. Consents to inspections;

41.5.c.2.B. Consents to warrantless searches and seizures;

41.5.c.2.C. Waivers of liability for disclosures of information; and

41.5.c.2.D. Consents to examination of confidential accounts and records;

41.5.c.3. Photographs and fingerprints of each individual person required to be qualified as part of the application. The photographs and fingerprints shall be taken at a time and place designated by the Director. Photos that have been taken within 90 days of

submitting an application may be sent with the applicable disclosure form to fulfill the photo requirement;

41.5.c.4. All of the following information for each individual person required to be qualified as part of the application:

41.5.c.4.A. Name;

41.5.c.4.B. Aliases and nicknames;

41.5.c.4.C. Date of birth;

41.5.c.4.D. Physical description;

41.5.c.4.E. Citizenship;

41.5.c.4.F. Marital history and family data; and

41.5.c.4.G. Home and business addresses and phone numbers;

~~41.5.c.4.H. Federal tax identification number;~~

~~41.5.c.4.I. West Virginia tax identification number; and~~

~~41.5.c.4.J. Social security number;~~

41.5.c.5. Personal, business, and financial information relevant to the moral character, reputation, integrity, business probity, experience and ability, and financial experience, stability, and responsibility of the person applying for a supplier license and each person required to be qualified as part of the application;

41.5.c.6. A listing of the jurisdictions in which the person applying for a supplier license and each person required to be qualified as part of that application holds or has held a supplier license or other gaming-related license;

41.5.c.7. Information regarding any previous civil litigation that involves the business practices of, or criminal arrests, charges, or dispositions involving, the person applying for a supplier license and each person required to be qualified as part of the application;

41.5.c.8. Information regarding the incorporation, partnership, or other business structure and organization of the person applying for the supplier license and the applicant's key persons and any holding company or affiliate that has control of the applicant;

41.5.c.9. Information regarding the equipment, goods, and services that the person applying for a supplier license will provide or supply to the limited gaming licensee or limited gaming license applicants, including, without limitation, information regarding

inventory, prices, and the knowledge, skill, education, training, and experience of the applicant and the managerial employees and sales and service representatives who will represent the applicant and conduct its business in West Virginia;

41.5.c.10. Information regarding any previous bankruptcy proceedings filed by or against the person applying for a supplier license or any other person required to be qualified as part of the application;

41.5.c.11. Information regarding any previous formal legal proceedings to adjust, deter, suspend, or otherwise work out payment of any debt owed by the person applying for a supplier license or any other person required to be qualified as part of the application;

41.5.c.12. Information regarding any present or previous tax delinquency or complaints, notices, or liens filed against the person applying for a supplier license, or any other person required to be qualified as part of the application, for nonpayment of local, state, or federal taxes and fees;

41.5.c.13. Information regarding any previous violation of, or noncompliance with, supplier licensing or regulatory requirements in West Virginia or any other jurisdiction by the person applying for a supplier license or any other person required to be qualified as part of the application;

41.5.c.14. Information regarding any previous violation of, or noncompliance with, any other licensing and regulatory requirements involving other regulated gaming or nongaming-related activity in West Virginia or any other jurisdiction by the person applying for a supplier license or any other person required to be qualified as part of the application;

41.5.c.15. Information regarding whether the person applying for a supplier license or any other person required to be qualified as part of the application has ever held a supplier license or other gaming-related license that was restricted, suspended, or revoked in West Virginia or any other jurisdiction;

~~41.5.c.16. To the extent known by the person applying for the supplier license, information regarding any political contributions, loans, donations, or payments made by the applicant, any other person required to be qualified as part of the application, or the applicant's or other person's respective spouses, parents, children, or spouses of children to a candidate within one year before submitting the application; and~~

41.5.e.17. 41.5.c.16. Other information which is required by the Commission regarding the person applying for a supplier license and any other person required to be qualified as part of the application and which is considered necessary by the Commission to protect the public and enhance the credibility and integrity of gaming in West Virginia and to properly evaluate the applicant's eligibility, qualifications, and suitability to be licensed as a supplier under the Act and this rule.

**§179-4-42. Supplier's License Issuance; Standards and Criteria.**

42.1. A person that is required to be licensed as a supplier under the Act and this rule shall, before issuance of a supplier's license, produce information, documentation, and assurances in its application to establish all of the following by clear and convincing evidence:

42.1.a. The applicant and all other persons required to be qualified as part of the application are eligible, qualified, and suitable for licensure under the licensing standards, criteria, and requirements set forth in section ~~7(a)~~ eleven of the Act and this rule;

42.1.b. The financial stability and responsibility of the applicant;

~~42.1.c. The applicant, if an individual, and all other individuals required to be qualified as part of the application are not less than 21 years of age;~~

~~42.1.d.~~ 42.1.c. The applicant and all other persons required to be qualified as part of the application demonstrate a level of skill, experience, knowledge, and ability necessary to supply the equipment, goods, or services that the applicant seeks permission to provide to the limited gaming facility licensee and license applicants in compliance with the Act and this rule;

~~42.1.e.~~ 42.1.d. The applicant and all other persons required to be qualified as part of the application have not been convicted of a gambling-related misdemeanor related to theft, bribery, gambling, or involving moral turpitude, or any felony;

~~42.1.f.~~ 42.1.e. The applicant and all other persons required to be qualified as part of the application do not appear on the exclusion list of any jurisdiction;

~~42.1.g.~~ 42.1.f. The applicant and all other persons required to be qualified as part of the application are in substantial compliance with all local, state, and federal tax laws; and

~~42.1.h.~~ 42.1.g. The applicant has adequate liability and casualty insurance.

**§179-4-43. Supplier License Application; Commission Action.**

~~43.1.~~ The Commission shall take the following action on an application for a supplier license:

~~43.1.a.~~ 43.1. After the completion of the background investigation, the Director shall report to the Commission, in writing, regarding the staff's background investigation of the applicant. Upon receipt of the Director's report, the Commission shall grant or deny the application.

~~43.1.b.~~ 43.2. If the Commission grants the application, it shall direct the Director to issue a supplier license ~~upon the payment of the annual licensing fee. If the applicant's annual licensing fee is not received by the Commission within 14 days after the date of the mailing of the notification of the applicant's suitability for licensure to the applicant, then the Commission~~

~~shall direct the Director to issue the applicant a notice of denial by personal delivery or certified mail.~~

43.1.e.43.3. If the Commission denies the application, then it shall instruct the Director to issue the applicant a notice of denial by certified mail.

43.1.d.43.4. If the applicant fails to request a hearing by certified mail within ten days of the applicant's receipt of the notice of denial to contest the denial, the notice of denial becomes the final order of the Commission.

#### **§179-4-44. Denied License; Reapplication.**

44.1. A person whose application for a supplier license has been denied may not reapply for a supplier license for a period of 1 year from the date on which the Commission voted to deny the application unless the Commission allows reapplication at an earlier date.

44.2. A person whose application for a supplier license was denied may seek leave of the Commission to reapply by addressing the request to the Commission. The Commission may require the applicant to present oral or written argument outlining why an exception should be made.

#### **§179-4-45. Annual License ~~Maintenance~~ Renewal Fee; Report.**

45.1. Each year, a licensed gaming facility supplier shall pay to the Commission an annual license ~~maintenance~~ renewal fee of ~~five thousand~~ one hundred dollars.

45.2. ~~Forty five days~~ Prior to annual renewal, the licensee shall file a written report with the Commission containing the following information:

45.2.a. If the licensee is a publicly traded corporation regulated by the Securities and Exchange Commission, a current list, to the extent known by the licensee at the time of submitting the report, of all key persons, affiliates and affiliated companies, the key persons of any person that has control of the licensee, and the identity of all other persons required to be qualified as part of the licensee's request for renewal of the license under the Act and this rule;

45.2.b. If the licensee is not a publicly traded corporation regulated by the Securities and Exchange Commission, a current list, to the extent known by the licensee at the time of submitting the report, of all key persons, affiliates and affiliated companies of the licensee, the key persons of any persons that have control of the licensee, and all other persons, other than publicly traded corporations and their 5% or less shareholders, that have more than a 1% direct, indirect, or attributed pecuniary or equity interest in the licensee;

45.2.c. To the extent that information has changed or has not been previously reported to the Commission, updated personal, business, and financial information, as the Commission may require, related to the eligibility, suitability, and general fitness of the licensee under the Act and this rule to continue to hold the license for which renewal is requested. The

information shall include, without limitation, changes regarding the identification, integrity, moral character, reputation, and relevant business experience, ability and probity, and financial experience, ability, and responsibility of the licensee and each of the persons required to be qualified for renewal of the license under the Act and this rule;

45.2.d. A statement under oath by the licensee's managing officer or director that the information provided in the licensee's annual renewal report is current, complete, true, and accurate, and that the licensee has fulfilled its obligation under the Act and this rule to notify the Commission of any change in information provided in its original license application and subsequent annual license renewal reports previously filed with the Commission;

45.2.e. Financial statements and reports regarding the current capital structure and financial condition of the licensee, prepared by the licensee in the manner and form prescribed by the Commission, indicating the licensee's current financial ability to conduct and maintain its supplier business in a financially responsible manner, in accordance with the requirements of the Act and this rule, and satisfy its financial obligations in accordance with financing agreements and other contractual obligations; and

45.2.f. Other information and documentation that the Commission may require to determine the licensee's eligibility, suitability, and qualification to have its license renewed under the licensing standards of the Act and this rule.

#### **§179-4-46. Renewal of Supplier License.**

~~46.1. A supplier license expires on the fifth anniversary of its effective date, unless the license is renewed for additional five year terms as provided in section fifteen [W. Va. Code §29-25-15].~~

~~46.2.~~46.1. A supplier license shall may be renewed by the Commission if all of the following requirements are met:

~~46.2.a.~~46.1.a. The licensee continues to be in good standing with the Commission; and

~~46.2.b.~~46.1.b. The licensee submits the ~~\$5,000.00~~ \$100.00 license renewal fee, in the manner and form required by the Commission, not less than ten days before expiration of the license. ~~This \$5,000 payment also satisfies the payment of the annual maintenance fee for the first year of the new five year license.~~

~~46.3. The Director, after reviewing the licensee's annual maintenance report, shall report in writing to the Commission that the licensee's annual maintenance report provides all information and documentation prescribed and required by the Commission to establish and determine that the licensee is eligible, qualified, and suitable to have its supplier license renewed and that the licensee is prepared, ready, and able to continue providing goods and services to the limited gaming facility in compliance with the Act and this rule throughout the new five year time period for which the license is to be renewed.~~

~~46.4.~~ 46.2. The Commission may refuse to renew a supplier license and issue a notice of non-renewal if the licensee fails to file its annual ~~maintenance~~ renewal report in a timely manner, or if the Director reports in writing to the Commission, after reviewing the licensee's annual renewal report, that the license should not be renewed because the licensee's annual renewal report does not provide the information and documentation prescribed and required by the Commission to establish and determine that the licensee is eligible, qualified, or suitable to continue to be licensed and that the licensee is prepared, ready, and able to continue providing goods and services to the limited gaming facility in compliance with the Act and this rule.

~~46.5.~~ 46.3. A supplier licensee who is served with a notice of non-renewal under this rule may request a hearing under this rule.

~~46.6.~~ 46.4. The notice of non-renewal does not constitute a finding by the Commission that the supplier licensee is ineligible, unqualified, or unsuitable for licensure or is otherwise in violation of the licensing requirements of the Act or rules of the Commission, unless the licensee fails to request a hearing under this rule in a timely manner. In this case, "timely" means "within ten calendar days."

~~46.7.~~ 46.5. If the licensee does not request a hearing in a timely manner, then the notice of non-renewal becomes the final order of the Commission.

~~46.8.~~ ~~If the licensee files an annual maintenance report in a timely manner and in the manner and form prescribed by the Commission, then the licensee's previous existing supplier license does not expire until the Commission issues its final decision and order on the renewal. If renewal is denied or the new license is restricted or limited, then the previous existing supplier license does not expire until the last day for applying for judicial review of the Commission's decision or a later date fixed by order of the reviewing court. This subsection, however, shall not affect a valid action by the Commission summarily suspending the licensee's previous existing supplier license.~~

~~46.9.~~ ~~A copy of the Director's report to the Commission and notice of renewal or notice of nonrenewal issued by the Commission shall be served on the licensee.~~

#### **§179-4-47. Occupational License Requirement; License Classes; Application; Exemptions.**

47.1. A natural person employed by the West Virginia limited gaming facility whose work duties are related to, or involved in, the gambling operation, or are performed in a restricted area of the casino or in the gaming area of the casino at the facility, shall hold an occupational license of the level required for the individual's position before the individual may perform any of the duties of his or her position.

47.2. This rule applies to both full-time and part-time employees.

47.3. The ~~three~~ two different classes of occupational licenses that an employee may hold are as follows:

47.3.a. Occupational license, level ~~1~~ one, the highest level of occupational license; and

47.3.b. Occupational license, level ~~2~~ two; ~~and~~

~~47.3.c. Occupational license, level 3.~~

47.4. An occupational licensee may perform any work duties or activities included within the level of occupational license held by the licensee for which they are qualified and included in any lower level of occupational license.

47.5. The Commission shall not process an application for an occupational license unless the application includes a written statement from an applicant for or the limited gaming facility that the applicant has been or will be hired upon receiving the appropriate occupational license for which application is made.

47.6. The Commission may exempt any person from the occupational licensing requirements of this rule if the Commission determines that the person is regulated by another governmental agency or that licensing is not considered necessary to protect the public interest or accomplish the policies and purposes of the Act.

#### **§179-4-48. Occupational License, Level ~~1~~ One.**

~~48.1.~~ A natural person who will be employed by the limited gaming facility in a position that includes any of the following responsibilities or authority, regardless of job title, shall hold, before employment, a current and valid level ~~1~~ one occupational license or a valid temporary level ~~1~~ one occupational license issued under this rule:

~~48.1.a.~~ 48.1. The supervision of specific areas or departments related to, or involved in, the gambling operation, including, without limitation, a person who does any of the following:

~~48.1.a.1.~~ 48.1.a. Functions as a casino shift manager;

~~48.1.a.2.~~ 48.1.b. Functions as a pit boss manager;

~~48.1.a.3.~~ 48.1.c. Functions as a poker shift ~~supervisor~~ manager;

~~48.1.a.4.~~ 48.1.d. Functions as a slot shift manager;

~~48.1.a.5.~~ 48.1.e. Supervises the repair and maintenance of slot machines and bill changers;

~~48.1.a.6.~~ 48.1.f. Supervises surveillance investigations or the operation of the surveillance department during a shift;

48.1.a.7.48.1.g. Supervises security investigations or the operation of the security department during a shift;

48.1.a.8.48.1.h. Functions as a cage manager;

48.1.a.9.48.1.i. Supervises the operation of the cashiers' cage, table games cage, or slot machine cage during a shift;

48.1.j. Functions as table games operations manager;

48.1.k. Functions as casino manager;

48.1.l. Functions as table games financial controllers;

48.1.m. Functions as personnel and human resources activities manager for table games;

48.1.a.10.48.1.n. Supervises the hard count room or soft count room; or

48.1.a.11.48.1.o. Supervises the patron check collection unit.

48.1.b. 48.2. The authority to develop or administer policy or long-range plans or to make discretionary decisions regulating gambling operations, including, without limitation, a person who does any of the following:

48.1.b.1.48.2.a. Functions as a director, officer, or comparable noncorporate employee of the limited gaming facility licensee or of a supplier licensee;

48.1.b.2.48.2.b. Functions as a casino manager;

48.1.b.3.48.2.c. Functions as a video lottery department manager;

48.1.b.4.48.2.d. Functions as a director of surveillance;

48.1.b.5.48.2.e. Functions as a director of security;

48.1.b.6.48.2.f. Functions as a controller;

48.1.b.7.48.2.g. Functions as a credit manager;

48.1.b.8.48.2.h. Functions as an audit department executive;

48.1.b.9.48.2.i. Functions as a management information system department manager;

48.1.b.10.48.2.j. Manages a marketing department;

~~48.1.b.11.48.2.k.~~ Functions as an assistant manager of a casino department;

~~48.1.b.12.48.2.l.~~ Manages casino administrative operations;

~~48.1.b.13.48.2.m.~~ Has authority to authorize the issuance of patron credit or cash compliments in the amount of \$10,000.00 or more;

~~48.1.b.14.48.2.n.~~ Functions as an audit manager; or

~~48.1.b.15.48.2.o.~~ Supervises a person who is required to hold ~~an occupational license, a level 1~~ one or level two occupational license; or

~~48.1.e.48.3.~~ The authority to develop or administer policy or long-range plans or to make discretionary decisions regulating the management of the limited gaming facility and other casino operations including, without limitation, a person who does the following:

~~48.1.e.1.48.3.a.~~ Manages the operation of a hotel; or

~~48.1.e.2.48.3.b.~~ Manages the personnel and human resource activities of the limited gaming facility.

#### **§179-4-49. Occupational License, Level ~~2~~ Two.**

~~49.1.~~ A natural person who will be employed by the limited gaming facility licensee ~~or a supplier licensee and~~ whose employment duties predominantly involve the maintenance, servicing, repair, or operation of gambling games, gaming, gaming machines, devices or equipment, or assets associated with the limited gaming facility licensee ~~or a supplier licensee~~, or regularly requires work in a restricted casino area shall hold, before employment, a current and valid occupational license, level ~~2~~ two, unless required to hold an occupational license, level ~~1~~ one, including, without limitation, a person who is or does any of the following:

~~49.1.a. 49.1.~~ Functions as a dealer;

~~49.1.b. 49.2.~~ Functions as a ~~boxperson~~ box person;

~~49.1.e. 49.3.~~ Functions as a floor attendant;

~~49.1.d. 49.4.~~ Performs under the supervision of an audit department manager, the duties and responsibilities of the internal audit department, ~~including, without limitation, all of the following:~~

~~49.1.d.1. The supervision of internal audit department personnel;~~

~~49.1.d.2. The monitoring of compliance with regulations and internal controls; and~~

~~49.1.d.3. The evaluation of the adequacy of accounting and administrative control;~~

~~49.1.e.49.5. Performs under the supervision of a controller, the duties and responsibilities of the casino accounting department, including, without limitation, all of the following:~~

~~49.1.e.1. The supervision of personnel in the casino accounting department;~~

~~49.1.e.2. Overseeing the review, verification, and recodation of casino revenue journal entries; and~~

~~49.1.e.3. The processing or control of active accounting documents related to casino gaming activity;~~

~~49.1.f.49.6. Has access to active accounting documents related to casino gaming activity;~~

~~49.1.g.49.7. Conducts surveillance investigations and operations;~~

~~49.1.h. Repairs and maintains slot machines and bill changers;~~

~~49.1.i.49.8. Assists in the operation of slot machines and bill changers, including, without limitation, a person who participates in manual jackpot payouts and fills payout reserve containers, or who supervises those persons performing these duties;~~

~~49.1.j.49.9. Identifies persons or groups of patrons to receive complimentary based on actual patron play, authorizes complimentary, or determines the amount of the complimentary;~~

~~49.1.k. 49.10. Analyzes casino operations data and makes recommendations to managerial employees relating to, without limitation, all of the following:~~

~~49.1.k.1.49.10.a. Casino marketing;~~

~~49.1.k.2.49.10.b. Complimentary;~~

~~49.1.k.3.49.10.c. Junkets;~~

~~49.1.k.4.49.10.d. Gaming;~~

~~49.1.k.5.49.10.e. Special events;~~

~~49.1.k.6.49.10.f. Promotions; and~~

~~49.1.k.7.49.10.g. Player ratings;~~

~~49.1.l.49.11. Enters data in gaming-related computer systems or develops, maintains, installs, or operates gaming-related computer software systems;~~

~~49.1.m.~~ 49.12. Collects and records patron checks and personal checks that are dishonored and returned by a bank;

~~49.1.n.~~ 49.13. Develops marketing programs to promote casino gaming including, without limitation, coupon redemption and other complimentary distribution programs;

~~49.1.o.~~ 49.14. Distributes, reconsiders, accounts for, or inventories coupons that are considered in the calculation of gross revenue;

~~49.1.p.~~ 49.15. Processes or maintains information on credit applications or the redemption of counter checks;

~~49.1.q.~~ 49.16. Processes coins, currency, gaming chips, gaming plaques, slot tokens or cash equivalents;

~~49.1.r.~~ 49.17. Repairs or maintains the closed circuit television system equipment that is required by this rule;

~~49.1.s.~~ 49.18. Is being trained to become a ~~surveillance~~ limited gaming facility employee;

~~49.1.t.~~ 49.19. Provides physical security in the casino;

~~49.1.u.~~ 49.20. Controls and maintains the slot machine inventory, including replacement parts, equipment and tools used to maintain slot machines;

~~49.1.v.~~ 49.21. Performs as the secretary to the supervisor of the surveillance department, internal audit department, casino accounting department or credit department;

~~49.1.w.~~ 49.22. Repairs gaming equipment other than video lottery terminals;

~~49.1.x.~~ 49.23. Performs responsibilities associated with the installation, maintenance or operation of computer hardware for casino computer systems;

49.24. Is employed as a video lottery service technician;

~~49.1.y.~~ 49.25. ~~Supervises a person required to be licensed as an employee of the limited gaming facility~~ Performs video lottery ticket redemption services; or

~~49.1.z.~~ 49.26. Is an employee of the casino gambling operation whom the Commission considers necessary to be licensed to ensure compliance with the Act and this rule and to protect the public and ensure the credibility and integrity of gaming in the state.

**§179-4-50. Occupational License, Level 3. “Person” Applying for Occupational License.**

~~50.1. A natural person who will be employed by the limited gaming facility and whose employment duties do not require a level 1 or level 2 occupational license, but are performed in the casino gaming area or affect gambling operations, shall hold before employment a current and valid occupational license, level 3, including, without limitation, a person who is or does the following:~~

~~50.1.a. Serves food or beverages in the casino gaming area to gaming patrons; or~~

~~50.1.b. An employee of the limited gaming facility whom the Commission requires to be licensed to ensure compliance with the Act and this rule and to protect the public and ensure the integrity and credibility of gaming in the State.~~

For the purposes of applying for or holding an occupational license, a "person" shall mean a natural person.

#### **§179-4-51. Applications for Occupational Licenses.**

51.1. An applicant for an occupational license, level ~~1~~ one or level ~~2~~ two, shall complete and submit an application and personal disclosure form to the Commission. The applicant shall submit the application and disclosure form in the manner and form prescribed by the Commission at Lottery Headquarters or any other location specified by the Commission. The application and personal disclosure forms prescribed by the Commission may require the applicant to provide any of the following information and documents with respect to the applicant:

51.1.a. The applicant's name, including any aliases or nicknames;

51.1.b. The applicant's date of birth and copy of his or her birth certificate;

51.1.c. The applicant's physical description;

51.1.d. The applicant's current address and residence history;

~~51.1.e. The applicant's social security number;~~

51.1.e. Marital history, dependents, and other family data;

51.1.f. The nature of the applicant's position with or interest in the limited gaming facility;

51.1.g. The applicant's current home and business or work telephone numbers;

51.1.h. The applicant's employment history of the applicant;

51.1.i. Record of military service;

51.1.j. Government positions and offices presently and previously held, and offices, trusteeships, directorships, or fiduciary positions presently or previously held with any business entity;

51.1.k. Licenses and other government permits or approvals presently and previously held by the applicant;

51.1.l. A denial, suspension, or revocation by a government agency of any license, permit, or certification held by, or applied for by, the applicant;

51.1.i;51.1.m. The felony convictions of the applicant and the applicant's immediate family residing in the same household for a misdemeanor related to theft, bribery, gambling, or involving moral turpitude, or any felony;

51.1.j;51.1.n. The information specified and required by the Act, including a photograph and 2 sets of the applicant's fingerprints of taken at a time or place, or both, specified by the Commission;

51.1.o. Financial information for the applicant, including, but not limited to:

51.1.o.1. Statement of assets and liabilities and net worth;

51.1.o.2 Bank accounts;

51.1.o.3 Loans;

51.1.o.4. Notes;

51.1.o.5. Real estate interests;

51.1.o.6. Mortgages and liens;

51.1.o.7. Life insurance;

51.1.o.8. Pension funds;

51.1.o.9. Real estate and income tax payables;

51.1.o.10. Credit score;

51.1.o.11. Vehicles; and

51.1.o.12. Other assets;

51.1.p. Judgments and petitions for bankruptcies or insolvency concerning the applicant or any business entity in which the applicant held a 5% or more interest, other than a

publicly traded company, or in which the applicant services as an officer or director;

51.1.q. A garnishment or attachment of wages, charging order or voluntary wage execution, or other formal proceedings to adjust, defer, suspend, or otherwise work out the payment of a debt of the applicant;

51.1.r. Other confidential financial and business information;

51.1.s. The applicant's education and training;

~~51.1.k.~~51.1.t. All required waivers and affidavits prescribed by the Commission;  
and

~~51.1.l.~~51.1.u. Other information or documents that the Commission considers necessary and relevant to determine the applicant's identity, eligibility, qualifications, and suitability for licensure under the Act or this rule.

~~51.2. An applicant for an occupational license, level 3, shall complete and submit one copy of an application to the Commission. The applicant shall submit the application in the manner and form prescribed by the Commission. The Commission may require the applicant to provide any of the following information and documents:~~

~~51.2.a. The applicant's name, including any aliases or nicknames;~~

~~51.2.b. The applicant's date of birth;~~

~~51.2.c. The applicant's physical description;~~

~~51.2.d. The applicant's current address and residence history;~~

~~51.2.e. The applicant's social security number;~~

~~51.2.f. The applicant's employment history;~~

~~51.2.g. The applicant's education and training;~~

~~51.2.h. The applicant's criminal history;~~

~~51.2.i. Previous bankruptcies of the applicant and garnishments, attachments, charging orders, or other formal proceedings to adjust, defer, suspend, or otherwise work out the payment of a debt of the applicant;~~

~~51.2.j. Whether the applicant has ever been bonded or been denied any type of bond;~~

~~51.2.k. The information specified and required by the Act, including a photograph and two sets of fingerprints of the applicant taken at the time of submission of the application;~~

~~51.2.l. All required waivers and affidavits prescribed by the Commission; and~~

~~51.2.m. Any other information that the Commission considers necessary and relevant to determine the applicant's eligibility, qualifications, and suitability for licensure under the Act and this rule.~~

51.2. In addition to completing the application and personal disclosure forms required by 51.1 of this rule, Occupational Level One and Level Two licensees working as service technicians or floor attendants shall:

51.2.a. Maintain all skills necessary for the timely repair and service of licensed video lottery terminals and associated equipment so as to ensure the continued, approved operation of those terminals;

51.2.b. Attend all commission mandated meetings, seminars and training sessions concerning the repair and maintenance of licensed video lottery terminals and associated equipment;

51.2.c. Promptly notify the commission of any electronic or mechanical video lottery terminal malfunctions; and

51.2.d. Provide to the Lottery, manufacturer training certificates enabling the licensee or license applicant to perform tasks on each brand of video lottery terminal operating at the gaming facility.

51.3. If the information provided by the applicant pursuant to the Act or this section of the Rules indicates that the applicant does not meet the Commission's standards for holding an occupational license, then the Commission may require the applicant to take reasonable action in order to qualify for an occupational license. Such reasonable action may include, but is not limited to, requiring the applicant to address outstanding judgments, liens, and collections.

#### **§179-4-52. Occupational Licensing Procedures.**

52.1. An applicant for an occupational license shall submit, together with the required application fee, a completed application that has been endorsed by an authorized representative of the limited gaming facility by whom the applicant will be employed if the applicant is licensed.

52.2. After the Commission has received the completed occupational license application, appropriate application fee, photograph, and fingerprints, ~~the Director and members of the West Virginia state police assigned to assist~~ the Commission shall review the applicant's application and conduct a criminal history check on the applicant.

52.3. If a preliminary review of the application and the criminal history check does not uncover or indicate any apparent deficiencies in the application or other circumstances that may

require denial of the application under the licensing standards of the Act and this rule, then the Director may issue a temporary occupational license to the applicant. The temporary occupational license authorizes the applicant to perform the employment duties for which the license is sought, pending Commission action on the applicant's license application. A temporary license issued under this rule is valid for not more than 90 days, but may be renewed upon expiration by the Director if the criteria in this subsection are satisfied.

52.4. The ~~director~~ Director shall issue a temporary identification badge to the temporary occupational licensee. The color of the temporary identification badge shall be different from the occupational license identification badge that is given to an occupational licensee upon issuance of a full occupational license. The temporary identification badge shall contain and display information as prescribed by the Commission.

52.5. Temporary occupational licensees shall wear and clearly display a legible name tag and shall have their temporary identification badge in their possession at all times during work hours at the limited gaming facility.

52.6. A person shall pay a fee of \$10.00 to the Commission for any necessary replacement of a temporary identification badge.

52.7. A temporary identification badge shall not be transferred and shall be immediately returned to the Commission if the temporary licensee resigns or if his or her employment at the limited gaming facility is terminated.

52.8. If, upon further investigation and review of the temporary licensee's application, the Director determines that the applicant is not eligible or suitable for licensure under the Act and this rule, then the Director may, upon written notice to the licensee and the licensee's employer, revoke the temporary license and order the immediate return of the temporary identification badge to the Commission.

52.9. If a temporary occupational license expires or is revoked, then the licensee shall not continue his or her employment and shall not perform the work duties for which the license is required.

52.10. If an applicant's temporary license expires or is revoked, the Director shall immediately forward the temporary licensee's application to the Commission for action together with a written report to the Commission recommending granting or denying the application. The Director's report shall state the reasons for his or her recommendation for Commission action on the application.

52.11. Before issuance of an occupational license, an occupational license applicant shall have the burden of producing the information, documentation, and assurances in his or her application to establish, by clear and convincing evidence, that the applicant is eligible, qualified, and suitable to receive the occupational license for which application is made, under the licensing standards in the Act and this rule.

52.12. The applicant shall demonstrate to the Commission a level of skill, knowledge, and/or experience reasonably necessary to perform the job duties required for the occupational license for which application is made. However, an applicant may still be employed by the limited gaming facility to perform the duties if the limited gaming facility agrees to provide necessary training to the applicant.

52.13. An applicant who has knowingly made a false statement of a material fact to the Commission, who has been suspended from operating a gambling game, gaming device or gambling operation in another jurisdiction by a board or other governmental authority of that jurisdiction having responsibility for the regulation of gambling or gaming activities, who has been convicted of a any felony, or a misdemeanor involving an offense of moral turpitude, a gambling related misdemeanor offense, a theft, bribery, or fraud offense, or has otherwise demonstrated, either by a police record or other satisfactory evidence, a lack of respect for law and order, or who has failed to meet any monetary obligation in connection with a gaming facility or any other form of gaming is not eligible, qualified, or suitable to be issued an occupational license.

52.14. Unless waived by the Commission, an applicant whose name appears on the exclusion list of any jurisdiction, is not eligible, qualified, or suitable to be issued an occupational license

52.15. An applicant shall also ~~be in substantial compliance with all local, state, and federal tax laws,~~ have good moral character, reputation, and integrity, and comply with any other licensing standard that the Commission considers necessary to ensure compliance with the Act, and this rule, and the Commission's minimum internal control standards, and protect the public and the credibility and integrity of gaming in the state.

#### **§179-4-53. Commission Action on Occupational License Applications.**

53.1. After the completion of the background investigation, the Director shall report to the Commission, in writing, regarding the staff's background investigation of the occupational license applicant. Upon receipt of the Director's report, the Commission shall grant or deny the application.

53.2. If the Commission grants the application, it shall direct the Director to issue an occupational license.

53.3. If the Commission denies the application, then it shall direct the Director to issue the applicant a notice of denial by certified mail.

53.4. A notice of denial does not constitute a finding that the applicant is ineligible, unqualified, or unsuitable to be licensed unless the applicant fails to request a hearing in a timely manner under this rule to contest the denial. If the applicant fails to request a hearing in a timely manner, then the notice of denial becomes the final order of the Commission. For purposes of this section, "timely" means "within ~~fifteen~~ ten calendar days."

**§179-4-54. Requirements for Occupational License Identification Badge.**

54.1. Upon a finding of suitability for licensure and payment of the appropriate license fee, the Commission shall issue an occupational license identification badge for the applicant. The license identification badge shall be in the form prescribed by the Commission.

54.2. The occupational license shall contain all of the following information:

54.2.a. The occupational licensee's first name, last name, and job title;

54.2.b. The occupational license number assigned by the Commission;

54.2.c. The level of the occupational license.;

54.2.d. The signature of the Director of the West Virginia Lottery;

54.2.e. The date that the occupational license was issued and the date that the occupational license will expire; and

54.2.f. Any other information prescribed by the Commission.

54.3. The limited gaming facility shall receive and ~~possess~~ maintain copies of the occupational license certificates for the respective occupational licensees it employs.

54.4. The occupational license shall remain the property of the Commission at all times. The occupational license may be revoked, suspended, canceled, or restricted by the Commission. The Commission may refuse to renew the license when it is reviewed under this rule.

54.5. Neither the occupational license nor the licensee identification badge shall be transferred to another person. If the occupational licensee resigns or the occupational licensee's employment is terminated, the occupational licensee shall return the license identification badge to the Commission.

54.6. The licensee identification badge shall be a card of a color designated by the Commission and meet the specifications of this rule. The colors of the licensee identification badges shall be different from the color of the temporary identification badge.

54.7. An occupational licensee shall wear and clearly display a legible name tag that is issued by the limited gaming facility licensee and approved by the Commission. Additionally, an occupational licensee shall keep the state license identification badge in his or her possession while on duty as well as while off duty when in the casino gaming area of the limited gaming facility.

54.8. An occupational licensee shall pay to the Commission a fee of \$10.00 for any necessary replacement of a licensee identification badge or the occupational license certificate. The Commission shall assess the fee each time an occupational licensee obtains a replacement

identification badge or occupational license certificate.

54.9. The occupational licensee identification badge shall be a card of the appropriate color that meets all of the following requirements:

54.9.a. The front side of the occupational licensee's identification badge shall:

- 54.9.a.1. Be a card bearing the name and logo of the West Virginia Lottery;
- 54.9.a.2. Display the applicant's photograph;
- 54.9.a.3. Display the applicant's first name and job title;
- 54.9.a.4. Display the occupational license number assigned by the Commission;
- 54.9.a.5. Display the level of the occupational license;
- 54.9.a.6. Display the signature of the Director of the West Virginia Lottery; and
- 54.9.a.7. Display the date the license identification badge and occupational license were issued and the date that the identification badge and occupational license will expire.

54.9.b. The back side of the occupational license identification badge shall:

- 54.9.b.1. Display the applicant's signature and the applicant's first and last name;
- 54.9.b.2. Display the applicant's date of birth;
- ~~54.9.b.3. List the applicant's security clearance levels and track the applicant's entry into and exit from secured areas of the casino; and~~
- 54.9.b.4. ~~54.9.b.3.~~ Display other information considered necessary by the Commission to identify the occupational licensee, the casino of employment, the appropriate level of occupational license, and any conditions or restrictions that have been placed on the occupational license;

54.9.c. The Commission shall ensure that occupational license identification badges are constructed so that the badges can be easily affixed to, and displayed clearly on, an occupational licensee's clothing.

54.9.d. The occupational license identification badges remain the property of the

Commission at all times.

**§179-4-55. Reapplication for Denied License.**

55.1. A person whose application for an occupational license has been denied may not, without permission of the Commission, reapply for an occupational license of the same or higher level for a period of one year from the date on which the Commission voted to deny the application.

55.2. A person whose application for an occupational license was denied may seek leave of the Commission to reapply within the one year period by addressing the request to the Commission through the Director. The Commission may require the applicant to present oral or written argument to the Commission outlining why an exception should be made.

**§179-4-56. Annual Maintenanece Renewal Fees; Renewal of Occupational Licenses.**

56.1. On each anniversary of the issuance of an occupational license, the licensee, or the limited gaming facility in the licensee's behalf, shall pay to the West Virginia Lottery an annual maintenanece renewal fee.

~~56.2. An occupational license may be renewed on the fifth anniversary of its original renewal and every five year period thereafter.~~

~~56.3.~~56.2. An occupational licensee shall request renewal of the license, on a form prescribed by the Commission, not less than 30 days before the expiration of the occupational license. The occupational licensee shall complete the form and provide the Commission with any information or documents that the Commission considers necessary to confirm the licensee's identity and determine the licensee's continued eligibility, suitability, and qualification to have his or her occupational license renewed under licensing standards set forth in the Act and this rule. The license renewal request form may include information related to any or all of the following about the licensee's:

~~56.3.a.~~56.2.a. Integrity;

~~56.3.b.~~56.2.b. Reputation;

~~56.3.c.~~56.2.c. Moral character;

~~56.3.d.~~56.2.d. Employment history;

~~56.3.e.~~56.2.e. Criminal record;

~~56.3.f.~~56.2.f. Past history of licensure;

~~56.3.g.~~56.2.g. Administrative law abidance;

~~56.3.h.56.2.h.~~ Civil litigation; and

~~56.3.i.56.2.i.~~ Financial responsibility.

~~56.4.56.3.~~ A licensee shall submit the form requesting renewal of an occupational license with the ~~biennial~~ annual license fee. The Commission may perform a background investigation on any occupational licensee seeking renewal of any license. ~~The Commission may require that a non-refundable investigation fee be charged to the occupational licensee or to the limited gaming facility on the licensee's behalf.~~

~~56.5.56.4.~~ The Commission may refuse to renew an occupational license if the occupational licensee no longer meets the requirements set forth in the Act, ~~and this rule, or the Commission's minimum internal control standards.~~ Such requirements include maintaining the standard for licensure that is set forth under section fifty-one of this rule. If the occupational licensee does not meet these requirements, then the Commission may deny renewal or it may issue a temporary license pursuant to section fifty-two-three of this rule, pending the applicant's reasonable efforts to meet the minimum qualifications for an occupational license.

~~56.6.56.5.~~ The Director shall investigate and review the licensee's renewal application and shall report in writing to the Commission whether the licensee is eligible, qualified, and suitable to have his or her occupational license renewed.

~~56.7.56.6.~~ Upon receipt and review of the Director's report, the Commission shall decide whether to renew the occupational license.

~~56.8.56.7.~~ If the Commission decides to renew the license, then it shall direct the Director to issue a new license to the applicant.

~~56.9.56.8.~~ If the Commission decides not to renew a license, then it shall direct the Director to issue a notice of denial to the applicant by certified mail.

~~56.10.56.9.~~ A copy of the Director's report to the Commission and notice list of occupational license applicants whose licenses were issued, renewed or notice of denial denied issued by the Commission shall be served on sent to the limited gaming facility.

~~56.11.56.10.~~ An occupational licensee who is served with a notice of denial under this rule may request a hearing under this rule and the West Virginia Lottery's Procedural Rule 179 CSR 2.

~~56.12.56.11.~~ The notice of denial shall not constitute a finding by the Commission that the occupational licensee is ineligible, unqualified, or unsuitable for licensure or is otherwise in violation of the licensing requirements of the Act or rules of the Commission, unless the licensee fails to request a hearing within ten days of its receipt of the notice of denial.

~~56.13.56.12.~~ If the licensee does not request a hearing in a timely manner, then the notice of denial becomes the final order of the Commission.

56.13. All occupational licensees must be re-licensed or re-permitted as of July first of each year. Due to the volume of re-licensing during the final three months of each fiscal year, any applicant for an occupational permit on and after April 1 of each year will be licensed until June 30th of the following year (example: April 20, 2003 thru June 30, 2004).

**§179-4-57. License Required to Provide Management Services; Standards and Criteria; Commission Action; Denied License; Reapplication; Renewal.**

57.1. When a person that is not a natural person will provide the limited gaming facility licensee with substantial management services, such as managing the day-to-day operation of authorized games of chance or all casino games, the person shall hold a management services provider license.

57.2. To qualify for a license, the applicant shall meet the requirements of this rule. Each controlling natural person of an applicant shall be of good moral character and reputation, and shall have the necessary experience and financial ability to successfully carry out the functions of a management services provider.

57.3 A person applying for a management service provider's license and a person required to be qualified as part of the application shall complete and submit the application and disclosure forms in the manner and form prescribed by the Commission. The application and disclosure forms shall be made under oath on prescribed forms provided by the Commission.

57.4. The application procedures for a management services provider's license are as follows:

57.4.a. Upon application, an applicant shall assume and accept, in writing, under oath, all risk of adverse publicity, notoriety, embarrassment, criticism, financial loss, or other unfavorable or harmful consequences that may occur in connection with the application process or the public disclosure of information submitted with the application;

57.4.b. Upon application, an applicant shall also expressly waive and give up, in writing, under oath, all claims for damages that may result from the application and licensing process;

57.4.c. Upon application, an applicant shall also consent, in writing, under oath, to being subject to inspections, investigations, audits, searches, and seizures for the duration of the management service provider's license for which application is made, if the license is issued;

57.4.d. Upon application, an applicant shall also authorize and consent, in writing, under oath, to release and disclose to the Commission and its authorized representatives and agents all otherwise confidential records of the applicant that the Commission requests from the applicant or from third parties, including, without limitation, tax records and financial records held by a federal, state, or local governmental agency, a credit bureau, or a financial institution while applying for, or while holding, a management services provider's license under the Act

and this rule;

57.4.e. The Commission shall use the information provided in the prescribed application and disclosure form as a basis for an appropriate background investigation for evaluating and determining the eligibility, qualifications, and suitability of the applicant to receive the license for which application is made. The Commission shall make the evaluation and determination under the licensing standards and criteria provided in the Act and rules of the Commission. A misrepresentation or omission in the application is cause for denial, suspension, restriction, or revocation of a license by the Commission;

57.4.f. A person applying for a management services provider's license shall provide the name, address, and telephone number of a representative to act as a liaison to the Commission's background investigators, and shall facilitate, assist, and cooperate with the Commission in its conduct of background investigations under the Act and this rule;

57.4.g. The Commission shall not issue a management services provider's license or renewal license unless the person applying for the license, and each person required to be qualified as part of the application for issuance or renewal of the license, has completed and filed with the Commission all required applications, license renewal reports and disclosure forms in the manner and form prescribed by the Commission, has provided all information, documentation, assurances, waivers, and releases, and has paid the fees required by the Act and this rule;

57.4.h. An applicant shall file all required application forms before the expiration of deadlines established and published by the Commission;

57.4.i. An applicant is under a continuing duty to disclose any material changes in the information or documentation provided in or with the application, renewal, and disclosure forms submitted to the Commission;

57.4.j. A person applying for a management services provider's license shall request amendment of its application when it knows, or should have known, that there has been a change in any of the following:

57.4.j.1 The applicant's key persons or the key persons of any holding company or affiliate that has control of the applicant;

57.4.j.2 The type of business organization or entity;

57.4.j.3 A holding company or affiliate;

57.4.j.4 The investors or debt holders, or both; or

57.4.j.5 A source of funds.

57.4.k A publicly traded corporation shall be considered to have complied with this rule if it has complied with the reporting requirements provided by section twelve of the Securities and Exchange Act of 1934, as amended (15 U.S.C. §78);

57.4.l. A management services provider's license application may be withdrawn upon written notice to the Commission before Commission action on the application if all background investigation costs of the Commission have been paid in full by the person applying for a management services provider's license; and

57.4.m. The Commission may allow information, documents, or other materials submitted by an applicant in a withdrawn application to be incorporated by reference into a subsequent application;

57.5. A management services provider's license application shall require that the person applying for the license and a person required to qualify as part of the application submit all of the following information and documentation on forms prescribed by the Commission:

57.5.a. The name of the person applying for a management services provider's license and any holding company or affiliate that has control of the applicant and the person's, company's, or affiliate's respective business address, phone number, federal identification number, and West Virginia taxpayer identification number;

57.5.b. To the extent known and identified by the applicant, the identity and home and business addresses and phone numbers of the key persons of the person applying for a management services provider's license, of a holding company or affiliate that has control of the applicant, and of any other person required to be qualified as part of the applicant's application under the Act and this rule; and

57.5.c. Applications and disclosure forms completed by the person applying for a management services provider's license and by the key persons of the applicant, a holding company or affiliate that has control of the applicant, and any other identified person required to be qualified as part of that applicant's application. The applications and disclosure forms shall contain all information and documentation that the Commission requires to determine the eligibility, qualifications, and suitability of each person under section ~~fifteen~~ fifty-three of the Act, specifically including photographs and fingerprints of each individual person required to be qualified as part of the application. The photographs and fingerprints shall be taken at a time and place designated by the Director. Photos that have been taken within ninety days of submitting an application may be sent with the applicable disclosure form to fulfill the photo requirement. Each applicant shall submit the following kinds of information:

57.5.c.1 All of the following information for each natural person required to be qualified as part of the application:

57.5.c.1.A Name;

57.5.c.1.B Aliases and nicknames;

57.5.c.1.C Date of birth;

57.5.c.1.D Physical description;

57.5.c.1.E Citizenship;

57.5.c.1.F Marital history and family data; and

57.5.c.1.G Home and business addresses and phone numbers;

and

57.5.c.2 Personal, business, and financial information relevant to the moral character, reputation, integrity, business probity, experience and ability, and financial experience, stability, and responsibility of the person applying for a management services provider's license and each person required to be qualified as part of the application;

57.5.c.3 A listing of the jurisdictions in which the person applying for a management services provider's license and each person required to be qualified as part of that application holds or has held a management services provider's license or other gaming-related license;

57.5.c.4 Information regarding any previous civil litigation that involves the business practices of, or criminal arrests, charges, or dispositions involving, the person applying for a management services provider's license and each person required to be qualified as part of the application;

57.5.c.5 Information regarding the incorporation, partnership, or other business structure and organization of the person applying for the management services provider's license and the applicant's key persons and any holding company or affiliate that has control of the applicant;

57.5.c.6 Information regarding the services that the person applying for a management services provider's license will provide to the limited gaming facility licensee, including, without limitation, information regarding the knowledge, skill, education, training, and experience of the applicant and the managerial employees who will represent the applicant and conduct its business in West Virginia;

57.5.c.7 Information regarding any previous bankruptcy proceedings filed by or against the person applying for a management services provider's license or any other person required to be qualified as part of the application;

57.5.c.8 Information regarding any previous formal legal proceedings to adjust, deter, suspend, or otherwise work out payment of any debt owed by the person applying for a management services provider's license or any other person required to be qualified as part of the application;

57.5.c.9 Information regarding any previous violation of, or noncompliance with, management services provider licensing or regulatory requirements in West Virginia or any other jurisdiction by the person applying for a management services provider's license or any other person required to be qualified as part of the application;

57.5.c.10 Information regarding any previous violation of, or noncompliance with, any other licensing and regulatory requirements involving other regulated gaming in West Virginia or any other jurisdiction by the person applying for a management services provider's license or any other person required to be qualified as part of the application;

57.5.c.11 Information regarding whether the person applying for a management services provider's license or any other person required to be qualified as part of the application has ever held a management services provider's license or other gaming-related license that was restricted, suspended, or revoked in West Virginia or any other jurisdiction; and

57.5.c.12 Other information which is required by the Commission regarding the person applying for a management services provider's license and any other person required to be qualified as part of the application and which is considered necessary by the Commission to protect the public and enhance the credibility and integrity of gaming in West Virginia and to properly evaluate the applicant's eligibility, qualifications, and suitability to be licensed as a management services provider under the Act and this rule.

57.6 A person that is required to be licensed as a management services provider under the Act and this rule shall, before issuance of a management services provider's license, produce information, documentation, and assurances in its application to establish all of the following by clear and convincing evidence:

57.6.a The applicant and all other persons required to be qualified as part of the application are eligible, qualified, and suitable for licensure under the licensing standards, criteria, and requirements set forth in section ~~fourteen~~ thirty-three of the Act and this rule;

57.6.b The financial stability and responsibility of the applicant;

57.6.c The applicant and all other persons required to be qualified as part of the application demonstrate a level of skill, experience, knowledge, and ability necessary to supply management services that the applicant seeks permission to provide to the casino licensee in compliance with the Act and this rule;

57.6.d The applicant and all other persons required to be qualified as part of the application have not been convicted of any disqualifying crime listed in section ~~fifteen~~ thirty-three of the Act; and

57.6.e The applicant and all other persons required to be qualified as part of the application do not appear on the exclusion list of any jurisdiction.

57.7 The Commission shall take the following action on an application for a management services provider license:

57.7.a. After the completion of the background investigation, the Director shall report to the Commission, in writing, regarding the staff's background investigation of the applicant. Upon receipt of the Director's report, the Commission shall grant or deny the application;

57.7.b If the Commission grants the application, it shall direct the Director to issue a management services provider's license;

57.7.c If the Commission denies the application, then it shall instruct the Director to issue the applicant a notice of denial by certified mail; and

57.7.d If the applicant fails to request a hearing by certified mail within ten days of the applicant's receipt of the notice of denial to contest the denial, the notice of denial becomes the final order of the Commission.

57.8. A person whose application for a management services provider license has been denied may not reapply for a management services provider license for a period of one year from the date on which the Commission voted to deny the application unless the Commission allows reapplication at an earlier date.

57.9. A person whose application for a management services provider license was denied may seek leave of the Commission to reapply by addressing the request to the Commission. The Commission may require the applicant to present oral or written argument outlining why an exception should be made.

57.10. Each year, a management service provider licensee shall pay to the Commission an annual license renewal fee of one hundred dollars in order to maintain its license. Additionally, prior to annual renewal, the management service provider licensee shall file a written report with the Commission containing the following information:

57.10.a. If the licensee is a publicly traded corporation regulated by the Securities and Exchange Commission, a current list, to the extent known by the licensee at the time of submitting the report, of all key persons, affiliates and affiliated companies, the key persons of any person that has control of the licensee, and the identity of all other persons required to be qualified as part of the licensee's request for renewal of the license under the Act and this rule;

57.10.b. If the licensee is not a publicly traded corporation regulated by the Securities and Exchange Commission, a current list, to the extent known by the licensee at the time of submitting the report, of all key persons, affiliates and affiliated companies of the licensee, the key persons of any persons that have control of the licensee, and all other persons, other than publicly traded corporations and their 5% or less shareholders, that have more than a 1% direct, indirect, or attributed pecuniary or equity interest in the licensee;

57.10.c. To the extent that information has changed or has not been previously reported to the Commission, updated personal, business, and financial information, as the Commission may require, related to the eligibility, suitability, and general fitness of the licensee under the Act and this rule to continue to hold the license for which renewal is requested. The information shall include, without limitation, changes regarding the identification, integrity, moral character, reputation, and relevant business experience, ability and probity, and financial experience, ability, and responsibility of the licensee and each of the persons required to be qualified for renewal of the license under the Act and this rule;

57.10.d. A statement under oath by the licensee's managing officer or director that the information provided in the licensee's annual renewal report is current, complete, true, and accurate, and that the licensee has fulfilled its obligation under the Act and this rule to notify the Commission of any change in information provided in its original license application and subsequent annual license renewal reports previously filed with the Commission;

57.10.e. Financial statements and reports regarding the current capital structure and financial condition of the licensee, prepared by the licensee in the manner and form prescribed by the Commission, indicating the licensee's current financial ability to conduct and maintain its supplier business in a financially responsible manner, in accordance with the requirements of the Act and this rule, and satisfy its financial obligations in accordance with financing agreements and other contractual obligations; and

57.10.f. Other information and documentation that the Commission may require to determine the licensee's eligibility, suitability, and qualification to have its license renewed under the licensing standards of the Act and this rule.

57.11. A management service provider license shall be renewed by the Commission if all of the following requirements are met:

57.11.a. The licensee continues to be in good standing with the Commission;  
and

57.11.b. The licensee submits the \$100.00 annual license renewal fee, in the manner and form required by the Commission, not less than ten days before expiration of the license.

57.12. The Commission may refuse to renew a management service provider license and issue a notice of non-renewal if the licensee fails to file its annual renewal report in a timely manner, or if the Director reports in writing to the Commission, after reviewing the licensee's annual renewal report, that the license should not be renewed because the licensee's annual renewal report does not provide the information and documentation prescribed and required by the Commission to establish and determine that the licensee is eligible, qualified, or suitable to continue to be licensed and that the licensee is prepared, ready, and able to continue providing goods and services to the limited gaming facility in compliance with the Act and this rule.

57.13. A management service provider licensee who is served with a notice of non-renewal under this rule may request a hearing under this rule.

57.13.a. The notice of non-renewal does not constitute a finding by the Commission that the management service provider licensee is ineligible, unqualified, or unsuitable for licensure or is otherwise in violation of the licensing requirements of the Act or rules of the Commission, unless the licensee fails to request a hearing under this rule in a timely manner. In this case, "timely" means "within ten calendar days."

57.13.b. If the licensee does not request a hearing in a timely manner, then the notice of non-renewal becomes the final order of the Commission.

**§179-4-58. Reviews of Finances of Licensees.**

58.1. On behalf of the Commission, the Lottery Director and the Lottery administrative staff are directed to engage in systematic reviews of the finances of the entities that help the Lottery Commission to operate the regulated, controlled, owned and operated West Virginia State Lottery games. Such entities may include persons licensed under the Act.

58.2. Depending on the operation, such reviews could occur monthly, quarterly or annually as directed by the Commission's Audit Committee. Such reviews should include, but are not limited to:

58.2.a. Monthly financial report, or balance sheet and income statement;

58.2.b. Any contract that can or would alter or restrict the ongoing business objectives of the licensee, permit agent or vendor without implicit Commission approval;

58.2.c. Quarterly 10-Q's; and

58.2.d. Year end financial statements and 10-k's, if public entities.

~~§179-4-57-59.~~ §179-4-59. [Reserved]

**PART 4. CONDUCT OF GAMING**

**§179-4-60. Rules of Game; Purpose.**

60.1. A limited gaming facility licensee shall submit its game rules to the Commission for approval to ensure all of the following:

60.1.a.60.1. The games offered by the limited gaming facility licensee are performed only in accordance with the Act and this rule;

60.1.b.60.2. The functions, duties, and responsibilities associated with the limited gaming operation are appropriately segregated and performed in accordance with sound practices

by competent, qualified personnel, and to ensure that an employee of the limited gaming facility licensee is not in a position to perpetuate and conceal errors or irregularities in the normal course of his or her duties; and

~~60.1.e.60.3.~~ The limited gaming operation is conducted by the limited gaming facility licensee with integrity and in accordance with the Act and this rule.

#### **§179-4-61. Hours of Operation.**

61.1. Gaming is authorized during hours set from time to time by the West Virginia Lottery Commission.

61.2. The limited gaming facility licensee may request to operate twenty-four hours a day, seven days a week, and the Commission may approve the request.

#### **§179-4-62. Minimum and Maximum Wagers.**

62.1. With the approval of the commission, the ~~The~~ operator of a gaming facility may set minimum wagers for any ~~authorized game of chance~~ West Virginia Lottery table game, ~~except for video lottery.~~

62.2. Video lottery terminals operated at the limited gaming facility may not allow more than ~~two~~ five dollars to be wagered on a single game. The following game options do not violate the \$5.00 wager limit on a single game because none require the insertion of more than \$5.00 to play the game:

62.2.a. The "Double-Up" option in poker games;

62.2.b. The "Splitting" option in blackjack games;

62.2.c. The "Insurance" option in blackjack games; and

62.2.d. The "Let It Ride" option in blackjack games.

#### **§179-4-63. Floor Plans.**

63.1. A limited gaming facility licensee or license applicant shall submit a floor plan or floor plans outlining each floor of the casino and the location, number, or position of each ~~electronic gaming device and live gaming device~~ video lottery terminal and gaming table position. A licensee or license applicant shall submit the floor plan or floor plans to the Commission not less than 30 days before the commencement of gambling operations.

63.2. The limited gaming facility licensee shall provide notice to the Commission of material changes in the casino floor plan before implementing the change.

63.3. The Deputy Director for Lottery Security, in consultation with the law enforcement

member of the Commission, shall review any changes in floor plans and security camera locations. If no law enforcement member of the Commission is appointed at the time consultation is needed, the Deputy Director for Lottery Security shall consult with the Chairman of the Commission. Changes in floor plans and security camera locations do not require a vote of the Commission.

**§179-4-64. Authorized Games.**

64.1. The limited gaming facility licensee shall not permit a game to be played if the game is not approved by the Commission.

~~64.1.a.~~64.2. The Commission shall authorize one or more variations of the following table games to be played at the limited gaming facility:

~~64.1.a.1.~~64.2.a. Baccarat;

~~64.1.a.2.~~64.2.b. Twenty-one or blackjack;

~~64.1.a.3.~~64.2.c. Poker;

~~64.1.a.4.~~64.2.d. Craps;

~~64.1.a.5.~~64.2.e. Roulette;

~~64.1.a.6.~~64.2.f. Wheel of fortune;

~~64.1.a.7.~~64.2.g. Video lottery games authorized by W. Va. Code §29-22A-1 et seq.; and

~~64.1.a.8.~~64.2.h. Other Monte Carlo-style table game expressly permitted by the Commission.

~~64.1.b.~~64.3. The Commission shall not authorize the following games to be played at the limited gaming facility:

~~64.1.b.1.~~64.3.a. punchboard;

~~64.1.b.2.~~64.3.b. Faro;

~~64.1.b.3.~~ Keno;

~~64.1.b.4.~~64.3.c. Numbers ticket;

~~64.1.b.5.~~64.3.d. push card;

~~64.1.b.6.~~64.3.e. jar ticket; and

~~64.1.b.7.64.3.f.~~ pull tab.

~~64.1.e.64.4.~~ Notwithstanding the foregoing provisions of this section, the West Virginia Lottery Commission may license the limited gaming facility to sell regular West Virginia Lottery games authorized by W. Va. Code §29-22-1 et seq.

**§179-4-65. Submission and Approval of Game Rules.**

65.1. The limited gaming facility licensee or license applicant shall submit its casino and video lottery game rules to the Commission in accordance with this rule. The rule for each West Virginia Lottery table game shall include a schematic showing all printing and positions on the table's felt. The State Lottery Commission's specified identifier symbol shall appear on the table felt at the location of the limited gaming facility licensee's choosing, and shall be at least three-inches-by-three-inches in size. The location of the symbol shall be clearly visible to patrons playing the West Virginia Lottery table game.

65.2. All game rules shall be in compliance with the provisions of the Act, ~~and~~ this rule, and minimum internal control standards issued by the Commission.

65.3. The limited gaming facility licensee or license applicant shall submit game rules in the following manner:

65.3.a. The limited gaming facility licensee or license applicant shall submit game rules to the Commission not less than 30 days before the commencement of gambling operations or the play of the game, or both.

65.3.b. The Commission shall vote to approve or disapprove the rules of the game in total or in part after the rules are presented by the Director. In the alternative, the Commission may delegate this approval to the Director.

65.3.c. Any portion of the game rules not approved may be revised and resubmitted by the limited gaming facility licensee or license applicant within the time period established by the Commission. This method shall be followed until all portions of the game rules have been approved or approval cannot be obtained.

65.3.d. Game rules may not be used by the limited gaming facility licensee or license applicant unless the rules of the game conform to the Commission's minimum internal control standards and have been submitted and approved, in writing, by the Commission. The Commission shall approve the proposed rules of the game if the rules satisfy all of the following criteria:

65.3.d.1. The rules fulfill the purposes stated in the Act and this rule;

65.3.d.2. The rules ensure that the game will be played with integrity;

65.3.d.3. The rules are written in language that is plain to the player;

65.3.d.4. The rules will be readily available to patrons within the casino;  
and

65.3.d.5. Other requirements necessary to protect the public and ensure public confidence in gaming.

65.4. If the Commission determines, at any time, that approved rules of the game are not adequate to ensure compliance with the Act and this rule or the integrity of the game, then the Commission may direct the limited gaming facility licensee, in writing, to amend its rules of the game.

#### **§179-4-66. Amendments to Game Rules.**

66.1. All of the following provisions apply to amendments to rules of the game:

66.1.a. ~~66.1.~~ 66.1. Unless otherwise provided by the Commission, the limited gaming facility licensee or license applicant shall submit an amendment to the rules of the game, including variations of games, to the ~~Commission~~ Director not less than 30 days before utilizing the rules of the game; and

66.1.b. ~~66.2.~~ 66.2. The Commission shall vote to approve or disapprove the amendment to the game rules in the same manner that an initial submission is approved or disapproved. In the alternative, the Commission may delegate this approval to the Director.

#### **§179-4-67. Table Limits.**

67.1. The rules of the game submitted by the limited gaming facility licensee or license applicant shall require that table limits for each table be clearly posted for the public.

67.2. The limited gaming facility licensee may amend the minimum and maximum wager at a table if the new maximum wager is not above the house maximum wager for the game. The limited gaming facility licensee may amend the minimum and maximum wagers of a table if both of the following actions are taken:

67.2.a. A sign is posted at the gaming table advising patrons of the new minimum and maximum wagers in effect for the table; and

67.2.b. Patrons at the table are advised of the change.

67.3. The limited gaming facility licensee may raise the house limit for individual patrons by following procedures for raising the limits that have been submitted with the rules of the game and approved in accordance with this rule.

#### **§179-4-68. Playing Card Specifications.**

**68.1.** All playing cards used by the limited gaming facility licensee shall be in compliance with all of the following specifications:

**68.1.a.68.1.** Unless otherwise provided in this rule, or in the game rules document, all decks of cards shall be one complete standard deck of fifty-two cards in four suits and at least one joker. The four suits shall be hearts, diamonds, clubs, and spades. Each suit shall consist of all of the following numerical cards:

**68.1.a.1.68.1.a.** Two to ten;

**68.1.a.2.68.1.b.** A jack;

**68.1.a.3.68.1.c.** A queen;

**68.1.a.4.68.1.d.** A king; and

**68.1.a.5.68.1.e.** An ace.

**68.1.b.68.2.** The backs of each card in a deck shall be identical and no card shall contain any marking, symbol, or design that will enable a person to know the identity of any element printed on the face of the card or that will differentiate the back of that card from any other card in the deck;

**68.1.c.68.3.** All edges shall be perfectly square with each side at a precise 90 degree angle to each adjacent side of the card;

**68.1.d.68.4.** The radius of all 4 corners shall be exactly the same;

**68.1.e.68.5.** The name, trade name, or logo of the limited gaming facility licensee or license applicant and a Lottery-specified identifier symbol shall be imprinted on the back side of each playing card twice in a mirror image. The mirror imaged name, trade name, or logo of the limited gaming facility licensee or license applicant shall be spaced a minimum of 3/4 of an inch apart;

**68.1.f.68.6.** If playing cards have a white border, then the border shall be a minimum of 3/16 of an inch on each side of the card;

**68.1.g.68.7.** In the hearts suit, the hearts shall be a ~~burgundy~~ red color;

**68.1.h.68.8.** In the diamonds suit, the diamond pips shall be a ~~burgundy~~ red color;

**68.1.i.68.9.** In the spades suit, the spades shall be a black color;

**68.1.j.68.10.** In the clubs suit, the trefoil-shaped figure shall be a black color;

~~68.1.k.~~68.11. All finished card decks are to be packaged using a cellophane or shrink wrap in ~~single deck~~ boxes that have a tamper-resistant security seal and a tear band;

~~68.1.l.~~68.12. The playing card manufacturer's identification name shall be placed on each deck box; and

~~68.1.m.~~68.13. The playing card manufacturer's identification name shall be placed on each box containing ~~individual~~ decks of playing cards.

#### **§179-4-69. Dice Specifications.**

~~69.1.~~All dice used by the limited gaming facility licensee shall be in compliance with all of the following specifications:

~~69.1.a.~~68.1. The dice shall be formed in the shape of a perfect cube and of a size no smaller than 0.750 inches on each side nor larger than 0.775 inches on each side;

~~69.1.b.~~68.2. The name, trade name, or logo of the limited gaming facility licensee and a Lottery-specified identifier symbol shall be imprinted on or in each die used by the limited gaming facility licensee or license applicant;

~~69.1.e.~~68.3. The dice shall be transparent and made exclusively of cellulose, except for the following:

~~69.1.e.1.~~68.3.a. Spots;

~~69.1.e.2.~~68.3.b. The name, trade name, or logo of the limited gaming facility licensee and a Lottery-specified identifier symbol; and

~~69.1.e.3.~~68.3.c. The serial number or letters, or both;

~~69.1.d.~~68.4. The surface of each side of the die shall be perfectly flat and the spots contained in each side of the die shall be perfectly flush with the area surrounding the spots;

~~69.1.e.~~68.5. The edges and corners of each die shall be perfectly square and form 90 degree angles with each adjacent side;

~~69.1.f.~~68.6. The texture and finish of each side shall be exactly identical to the texture and finish of all other sides;

~~69.1.g.~~68.7. The weight of each die shall be equally distributed throughout the cube, and no side of the cube may be heavier or lighter than any other side of the cube;

~~69.1.h.~~68.8. The dice shall have 6 sides bearing white circular spots from 1 to 6, respectively, with the diameter of each spot equal to the diameter of every other spot on the die;

~~69.1.i.68.9.~~ The dice shall have spots arranged so that all of the following provisions are satisfied:

~~69.1.i.1.68.9.a.~~ The side containing one spot is directly opposite the side containing 6 spots;

~~69.1.i.2.68.9.b.~~ The side containing two spots is directly opposite the side containing five spots; and

~~69.1.i.3.68.9.c.~~ The side containing three spots is directly opposite the side containing four spots.

~~69.1.j.68.10.~~ Each spot shall be placed on the die by drilling, or the equivalent, into the surface of the cube and filling the drilled out portion with a compound that is equal in weight to the weight of the cellulose drilled out and that forms a permanent bond with the cellulose cube.

68.11. Each Lottery-specified identifier symbol shall be printed in a manner that shall not change the weight or balance of the die.

#### **§179-4-70. Removal of Cards or Dice From Play.**

70.1. The limited gaming facility licensee shall remove any dice or playing cards if there is an indication of any of the following:

70.1.a. The dice or playing cards have been tampered with;

70.1.b. The dice or playing cards are flawed; or

70.1.c. The dice or playing cards are defective and the defect may affect the integrity or fairness of the game.

70.2. If there is an indication that dice or playing cards have been tampered with, then the pit boss, or his or her equivalent, shall place the dice or playing cards in an envelope, seal the envelope, and give the envelope to Lottery Security. The pit boss, or his or her equivalent, shall note all of the following information on the outside of the envelope:

70.2.a. The date and time the dice or playing cards were removed from play;

70.2.b. The live gaming device from which the dice or playing cards were removed from play;

70.2.c. The characteristics that indicate that the dice or playing cards were tampered with; and

70.2.d. The name of all occupational licensees at the live gaming device from which the dice or playing cards were removed, and the name of the pit boss, or his or her

equivalent, who removed the dice or playing cards from play.

70.3. Except for dice that are removed from play due to the possibility of tampering, all dice shall be canceled when removed from play. Dice may be canceled by any of the following means:

70.3.a. Drilling a circular hole that is not less than 1/4 of an inch in diameter through the center of each die;

70.3.b. Destroying the die by shredding; or

70.3.c. Canceling the die in any other manner approved by the Director.

70.4. Except for playing cards that are removed from play due to the possibility of tampering, all playing cards shall be canceled by one of the following methods:

70.4.a. Drilling a circular hole that is not less than 1/4 of an inch in diameter through the center of each card in the deck;

70.4.b. Shaving not less than two corners of each playing card so that each side is no longer at 90 degree angles with each adjacent side;

70.4.c. Shredding the cards; or

70.4.d. Canceling the cards by any other method approved by the Director.

70.5. This rule shall not prevent a licensee from removing cards and dice from a game at any time in its discretion.

#### **§179-4-71. Storage of Cards or Dice.**

71.1. All dice or playing cards that are not being used at a live gaming device shall be kept in locked compartments on the licensed premises.

71.2. Dice and playing cards shall not be left at a live gaming device while unattended.

71.3. The limited gaming facility licensee shall maintain an inventory of all dice and playing cards on forms prescribed by the Commission. The inventory shall contain all of the following information:

71.3.a. The date on which dice and playing cards were received;

71.3.b. The quantity of the dice and playing cards received;

71.3.c. The name, business address, and business telephone number of the manufacturer from which the dice or playing cards were received;

71.3.d. The quantity of dice and playing cards that are placed into play each day;

71.3.e. The quantity of dice and playing cards that are removed from play due to suspected tampering and the date of the removal; and

71.3.f. The quantity of dice and playing cards that are removed from play and canceled each day.

71.4. The limited gaming facility licensee shall conduct a physical inventory of the dice and playing cards every 3 months. The limited gaming facility licensee shall record the results of the physical inventory on forms prescribed by the Commission. The limited gaming facility licensee shall reconcile inventory maintained in subsection (3) of this section with the results of the physical inventory. The limited gaming facility licensee shall immediately report any discrepancies in the inventory forms and the physical inventory to the Commission.

#### **§179-4-72. Inspection of Cards.**

72.1. When playing cards are accepted for play at a live gaming device, the occupational licensee accepting the playing cards shall inspect the playing cards to ensure the playing cards comply with this rule.

72.2. Playing cards shall be inspected by sorting the cards sequentially by suit and inspecting the sides of the cards for crimps, bends, cuts, shaving, or any other defect that would affect the integrity or fairness of the game.

#### **§179-4-73. Inspection of Dice.**

73.1. Before dice are placed into play at a live gaming device, the pit boss, or his or her equivalent, shall inspect the dice to ensure the dice comply with this rule.

73.2. Dice shall be inspected by all of the following methods on a flat surface that allows the inspection of the dice to be monitored by the surveillance system:

73.2.a. A micrometer or any other approved instrument that performs the same function;

73.2.b. A balancing caliper; or

73.2.c. A steel set square and magnet.

73.3. The limited gaming facility licensee shall store the micrometer or other approved instrument, the balancing caliper, and/or the steel set square and magnet in a secure place that is not accessible by the public.

#### **§179-4-74. Casino Gaming Wagering; Cashless Wagering System Required.**

74.1. The limited gaming facility licensee may not permit any form of wagering except as authorized by this rule.

74.2. The limited gaming facility licensee may receive wagers only from an individual present in a licensed gaming facility.

74.3. All limited gaming facility operations shall utilize a cashless wagering system whereby all players' money is converted to tokens, electronic cards, ~~or chips~~, or other approved media that which can only be used for wagering in a licensed gaming facility.

74.4. Except as permitted for video lottery games under the Racetrack Video Lottery Act, W. Va. Code §29-22A-1 et seq., wagering may not be conducted with money or other negotiable currency.

#### **§179-4-75. Cashing-In.**

~~75.1.~~ The limited gaming facility licensee shall comply with ~~all federal~~ any Internal Revenue Service laws and regulations and state laws and rules for the reporting of income or the withholding of taxes from winnings or the filing of currency transaction reports, or both. A patron shall produce an identification card confirming information required by all federal and state regulations for the withholding of taxes from winnings or currency transaction reports, or both, before the disbursement of winnings. If no identification card is tendered by the patron, distributed winnings may be subject to backup withholdings as provided by the Internal Revenue Code.

#### **§179-4-76. Submission of Chips For Review and Approval.**

76.1. The limited gaming facility licensee shall submit, to the Commission for approval, a sample of each denomination of value and non-value chips in its primary and secondary sets and shall not utilize the chips for gaming purposes until approved by the Director.

76.2. In requesting approval of the chips, the limited gaming facility licensee shall first submit to the Commission, before having any chips manufactured, a detailed schematic of its proposed chips, or a sample chip, which shall show the front, back, and edge of each denomination of value chip and each non-value chip, and the design and wording to be contained on the chip, all of which shall be depicted on the schematic or chip as they will appear, both as to size and location, on the actual chip. Once the design schematics or chip is approved by the Commission, a value or non-value chip shall not be issued or used until a sample of each denomination of value chip and each color of non-value chip is also submitted to, and approved by, the Commission.

76.3. The limited gaming facility licensee, or any licensed supplier or unlicensed supplier, shall not manufacture for, sell to, distribute to, or use in, any casino outside West Virginia any value or non-value chips that have the same edge design as chips approved for use by the West Virginia limited gaming facility.

**§179-4-77. Chip Specifications.**

77.1. All of the following specifications apply to value chips:

77.1.a. A chip issued by the limited gaming facility licensee shall be round in shape and have the name of the limited gaming facility, the Lottery-specified identifier symbol and the specific value of the chip clearly and permanently impressed, engraved, or imprinted on the chip, except that the limited gaming facility licensee may issue gaming chips without a value impressed, engraved, or imprinted on the chip for roulette. A chip that has a value contained on the chip is known as a "value chip" and a chip that does not have a value contained on the chip is known as a "non-value chip";

77.1.b. A value chip may be issued by the limited gaming facility licensee in denominations of 50 cents, \$1.00, \$2.50, \$5.00, \$20.00, \$25.00, \$100.00, \$500.00, \$1,000.00, and \$5,000.00. The limited gaming facility licensee may determine the denominations to be used in its casino and the amount of each denomination for the conduct of casino gaming operations;

77.1.c. Each denomination of value chip shall have a primary color different from every other denomination of value chip. Value chips shall fall within the colors set forth in this subdivision when the chips are viewed both in daylight and under incandescent light. In conjunction with the primary colors, the limited gaming facility licensee shall utilize contrasting secondary colors for the edge spots on each denomination of value chip. Unless otherwise approved by the Director, the limited gaming facility licensee shall not use a secondary color on a specific denomination of chip identical to the secondary color used by a casino outside the boundaries of the State of West Virginia on the same denomination of the value chip. The primary color that the limited gaming facility licensee shall utilize for each denomination of value chip is as follows:

77.1.c.1.	50 cents	"Mustard yellow;"
77.1.c.2.	\$1.00	"White;"
<u>77.1.c.3.</u>	<u>\$2.00</u>	<u>"Tan;"</u>
<del>77.1.e.3.</del> <u>77.1.c.4.</u>	\$2.50	"Pink;"
<u>77.1.c.5.</u>	<u>\$3.00</u>	<u>"Brown;"</u>
<del>77.1.e.4.</del> <u>77.1.c.6.</u>	\$5.00	"Red;"
<del>77.1.e.5.</del> <u>77.1.c.7.</u>	\$20.00	"Yellow;"
<del>77.1.e.6.</del> <u>77.1.c.8.</u>	\$25.00	"Green;"

<del>77.1.e.7:</del> <u>77.1.c.9.</u>	\$100.00	"Black;"
<del>77.1.e.8:</del> <u>77.1.c.10.</u>	\$500.00	"Purple;"
<del>77.1.e.9:</del> <u>77.1.c.11.</u>	\$1,000.00	"Fire orange;" and
<del>77.1.e.10:</del> <u>77.1.c.12.</u>	\$5,000.00	"Gray;"

77.1.d. Each denomination of value chip used by the limited gaming facility licensee shall, unless otherwise authorized by the Commission, be in compliance with all of the following specifications:

77.1.d.1. It shall have a center portion containing the value of the chip and the name of the limited gaming facility of a different shape from each other denomination;

77.1.d.2. It shall be designed so that the specific denomination of the chip can be determined on closed circuit black and white television when placed in a stack of chips of other denominations; ~~and~~

77.1.d.3. ~~It shall be designed, manufactured, and constructed so as to prevent, to the greatest extent possible, the counterfeiting of the chips or~~ At the limited gaming facility licensee's option, or at a later time that may be determined by the Commission, each chip shall have an embedded radio frequency microchip that uniquely identifies the chip itself, the issuing gaming facility, identifying the issue and denomination of the chip; and

~~77.1.d.4.~~ It shall have the Lottery-specified identifier symbol.

77.1.e. The Commission may approve a value chip in denominations that deviate from the requirements of this rule if deviation is specifically identified by the limited gaming facility licensee and if the deviation does not affect the control, security, or integrity of the chips or the operation of the games.

77.2. All of the following provisions apply to non-value chips:

77.2.a. Each non-value chip used by the limited gaming facility shall be issued solely for the purpose of gaming at roulette. Each non-value chip at each roulette table shall:

77.2.a.1. Have the name of the limited gaming facility issuing it impressed, engraved, or imprinted into its center;

77.2.a.2. Contain a design, insert, or symbol differentiating it from the non-value chips being used at every other roulette table in the casino;

77.2.a.3. Have the word "roulette" impressed on it; and

77.2.a.4. Be designed, manufactured, and constructed so as to prevent, to

the greatest extent possible, the counterfeiting of the chips;

77.2.b. Non-value chips issued at a roulette table shall only be used for gaming at that table and shall not be used for gaming at any other table in the limited gaming facility. The limited gaming facility licensee or its employees shall not allow a casino patron to remove non-value chips permanently from the table from which the chips were issued;

77.2.c. An individual at a roulette table shall not be issued or permitted to wager with non-value chips that are identical in color and design to value chips or to non-value chips being used by another individual at the same table. When a patron purchases non-value chips, a non-value chip of the same color shall be placed in a slot or receptacle attached to the outer rim of the roulette wheel. At that time, a marker button denoting the value of a stack of 20 chips of that color shall be placed in the slot or receptacle;

77.2.d. Non-value chips shall only be presented for redemption at the table from which they were issued and shall not be redeemed or exchanged at any other location in the casino gaming operation. When presented for redemption, the dealer at the table shall exchange the chips for an equivalent amount of value chips, which may then be used by the patron in gaming or redeemed in the manner provided for value chips; and

77.2.e. The limited gaming facility licensee may permit, limit, or prohibit the use of value chips in gaming in roulette. However, it is the responsibility of the limited gaming facility licensee to keep an accurate account of the wagers being made at roulette with value chips so that the wagers made by one player are not confused with wagers made by another player at the table.

#### **§179-4-78. Primary, Secondary, and Reserve Sets of Gaming Chips.**

78.1. Unless otherwise authorized by the Commission, the limited gaming facility shall have a primary set of value chips, a separate secondary set of value chips, and a non-value chip reserve that conform to the color and design specification set forth in this rule. An approved secondary set of value chips and reserve non-value chips shall be placed into active play if the primary set is removed.

78.2. The secondary set of value chips shall have different secondary colors than the primary set of value chips. A secondary set of value chips is required for all denominations in use in the limited gaming facility.

78.3. The limited gaming facility licensee shall have a non-value chip reserve for each color used in the casino and a design insert or symbol of the reserve chips shall be different from the non-value chips comprising the primary set.

78.4. The limited gaming facility licensee shall remove the primary set of gaming chips from active play if any of the following provisions apply:

78.4.a. A determination is made by the limited gaming facility licensee or the

Commission that the casino gaming operation is receiving a significant number of counterfeit chips; or

78.4.b. Any other impropriety or defect in the utilization of the primary set of chips makes removal of the primary set necessary.

78.5. If the primary set of chips is removed from active play, then the limited gaming facility licensee shall immediately notify the Commission as to the reason for the removal.

**§179-4-79. Issuance and Use of Tokens for Gaming in ~~Electronic Gaming Devices~~ Video Lottery Terminals.**

79.1. The limited gaming facility licensee shall not issue, or cause to be used, in its casino gaming operation, any tokens for gaming in ~~electronic gaming devices~~ video lottery terminals unless the tokens are approved by the Commission. In requesting approval of the tokens, the limited gaming facility licensee shall first submit, to the Commission, a detailed schematic of its proposed token. The schematic shall show its front, back, and edge, its diameter and thickness, and any logo, design, or wording to be contained on the token, all of which shall be depicted on the schematic as they will appear, both as to size and location, on the actual token. Once the design schematics are approved by the Commission, a token shall not be issued or used until a sample of the token is also submitted and approved by the Commission.

79.2. The limited gaming facility licensee may, with the approval of the Commission, issue metal tokens designed for gaming in its ~~electronic gaming devices~~ video lottery terminals. The tokens shall:

79.2.a. Clearly identify the name and location of the limited gaming facility operation issuing them.

79.2.b. Clearly state the face value of the token;

79.2.c. Contain the statement "Not Legal Tender;"

79.2.d. Contain on at least one face a statement approved by the Commission as to form and content that notifies a patron that the token will be accepted to activate play only in ~~electronic gaming devices~~ video lottery terminals operated by the limited gaming facility licensee that issued it;

79.2.e. Not be deceptively similar to any current or past coin of the United States of America or of a foreign country;

79.2.f. Be of a size or shape or have other characteristics that will physically prevent their use to activate lawful vending machines or other machines designed to be operated by coins of the United States of America;

79.2.g. Not be manufactured from a ferromagnetic material or from a three-

layered material consisting of a copper-nickel alloy clad on both sides of a pure copper core or from a copper based alloy unless the total zinc, nickel, aluminum, magnesium, and other alloying metal is more than 25% of the token's weight;

79.2.h. Incorporate the anti-counterfeit features and other security measures the Commission requires; and

79.2.i. Be disk-shaped and conform to all of the following measurements:

79.2.i.1. The diameter of the five-cent denomination tokens shall be between 0.795 and 0.805 inches and the width shall be between 0.072 and 0.078 inches;

79.2.i.2. The diameter of the 10 cent denomination tokens shall be between 0.870 and 0.880 inches and the width shall be between 0.058 and 0.067 inches;

79.2.i.3. The diameter of the 25 cent denomination tokens shall be between 0.979 and 0.989 inches and the width between 0.064 and 0.070 inches;

79.2.i.4. The diameter of the 50 cent denomination tokens shall be between 1.235 and 1.248 inches and the width between 0.077 and 0.083 inches;

79.2.i.5. The diameter of the \$1.00 denomination tokens shall be between 1.460 and 1.470 inches and the width between 0.098 and 0.104 inches;

79.2.i.6. The diameter of the \$2.00 denomination tokens shall be between 1.335 and 1.348 inches and the width between 0.098 and 0.104 inches;

79.2.i.7. The diameter of the \$5.00 denomination tokens shall be between 1.750 and 1.760 inches and the width between 0.119 and 0.125 inches;

79.2.i.8. The diameter of the \$10.00 denomination tokens shall be between 1.695 and 1.705 inches and the width between 0.133 and 0.139 inches;

79.2.i.9. The diameter of the \$25.00 denomination tokens shall be between 1.645 and 1.655 inches and the width between 0.093 and 0.099 inches; and

79.2.i.10. The diameter of the \$100.00 denomination tokens shall be between 1.595 and 1.605 inches and the width between 0.077 and 0.083 inches.

79.3. Notwithstanding the specifications for denominations contained in paragraphs 79.2.i.1 through 79.2.i.10 of this rule, the limited gaming facility shall not acquire or use tokens of any denomination greater than the maximum amount allowed by law to be wagered on a single game.

79.4. Tokens approved for issuance by the limited gaming facility licensee shall be in compliance with all of the following provisions:

79.4.a. Be issued to a patron upon payment for the tokens, or in accordance with a complimentary distribution program authorized under the Act or this rule;

79.4.b. Be capable of insertion into designated ~~electronic gaming devices~~ video lottery terminals operated by the limited gaming facility for the purpose of activating play;

79.4.c. Be available as a payout from the hopper of video lottery terminals; and

79.4.d. Be redeemable by the patron in accordance with the Act and this rule.

#### **§179-4-80. Distribution of Coupons for Complimentary Chips and Tokens.**

~~80.1.~~ The limited gaming facility licensee may, for specified marketing purposes, provide patrons of its casino gaming operation with coupons redeemable for complimentary chips or tokens, if both of the following requirements are satisfied:

~~80.1.a.~~80.1. The processes and procedures for the control, accountability, and distribution of coupons for chips and tokens and for the redemption of the coupons are provided for in the limited gaming facility licensee's internal control system and are in conformance with the internal control system; and

~~80.1.b.~~80.2. Periodic internal audits validate the integrity and accountability of the processes and procedures authorized and required under this rule.

#### **§179-4-81. Exchange of Chips and Tokens.**

81.1. The limited gaming facility licensee shall issue chips to an individual only at the request of the individual and shall not issue chips as change in any other transaction. The limited gaming facility licensee shall issue chips only to casino patrons at cashier's cages or at the live gaming devices and shall redeem chips only at a cashier's cage.

81.2. The limited gaming facility licensee shall issue its tokens only at the request of a patron and only from a cashier's cage, token dispenser, or employees in the video lottery terminals area. The limited gaming facility licensee shall redeem tokens only at a cashier's cage.

81.3. The limited gaming facility licensee shall redeem chips or tokens only from its patrons and shall not knowingly redeem chips or tokens from any non-patron source, except when non-gaming employees of the historic resort hotel present chips or tokens for redemption as provided in the approved internal control system of the casino.

81.4. The limited gaming facility licensee shall promptly redeem its own chips and tokens by cash or by check dated the day of the redemption on an account of the limited gaming facility licensee, as requested by the patron, except when the chips and tokens were obtained or used unlawfully.

81.5. The limited gaming facility licensee may demand the redemption of its chips or tokens from any individual in possession of them. An individual shall redeem the chips or tokens upon presentation of an equivalent amount of cash by the limited gaming facility licensee.

81.6. The limited gaming facility licensee shall cause to be posted and keep posted, in a prominent place, both of the following signs:

81.6.a. Visible at or near each cashier's cage, a sign that reads as follows: "Gaming chips issued by any other casino in the world may not be wagered or redeemed in this casino;" and

81.6.b. Visible at or near each cashier's cage, a sign that reads as follows: "Tokens issued by any other casino or racetrack in the world may not be wagered or redeemed in this casino."

**§179-4-82. Receipt of Gaming Chips From Manufacturer or Distributor.**

82.1. When chips are received from the ~~manufacturer or~~ supplier, they shall be opened and checked by not less than two employees of the limited gaming facility licensee from different departments. The limited gaming facility licensee shall promptly report to the Commission any deviation between the invoice accompanying the chips and the actual chips received or any defects found in the chips or tokens. The supplier licensee ~~or unlicensed supplier~~ shall give the Commission prior notification of the delivery of chips to the limited gaming facility licensee. The limited gaming facility licensee shall not accept the delivery of chips unless the Commission has been given prior notification of the delivery.

82.2. After checking the chips received, the limited gaming facility licensee shall cause to be reported, in a chip inventory ledger, all of the following information:

82.2.a. The denomination of the chips received;

82.2.b. The number of each denomination of chip received;

82.2.c. The number and description of all non-value chips received;

82.2.d. The date of the receipt; and

82.2.e. The signature of the individuals who checked the chips.

82.3. If any of the chips received are to be held as reserve chips and not used either at the gaming tables or at a cashier's cage, then a licensee shall ensure that the chips are stored in a separate locked compartment either in the vault or in a cashier's cage and are recorded in the chip inventory ledger as reserve chips.

82.4. A limited gaming facility licensee shall ensure that any chips received that are part of the secondary set of chips of the casino are recorded in the chip inventory ledger as secondary

chips and are stored in a locked compartment in the casino vault separate from the reserve chips.

**§179-4-83. Inventory of Chips.**

83.1. Chips shall be taken from or returned to either the reserve chip inventory or the secondary set of chips in the presence of not less than two individuals, ~~one of whom shall be from the security department of the limited gaming facility~~ from two of the following independent departments of the limited gaming facility: Security; accounting; auditing; or the casino department. The denominations, number, and amount of chips taken or returned shall be recorded in the chip inventory ledger together with the date and signatures of the individuals carrying out the process.

83.2. The limited gaming facility licensee shall, on a ~~biweekly~~ monthly basis, compute and record the unredeemed liability for each denomination of chips to ensure that an inventory of chips in circulation is made and to ensure that the result of the inventory is recorded in the chips inventory ledger. On a monthly basis, the limited gaming facility licensee shall ensure that an inventory of chips in reserve is made and ensure that the result of the inventory is recorded in the chip inventory ledger. A limited gaming facility licensee shall submit the procedures it will use to compute the unredeemed liability and to inventory chips in circulation and reserve to the Commission for approval. A physical inventory of chips in reserve is required annually if the inventory procedures incorporate the sealing of the locked compartment.

83.3. During non-gaming hours, the limited gaming facility licensee shall ensure that all chips in the possession of the casino are stored in the chip bank, in the vault, or in a locked compartment in a cashier's cage. However, chips may be locked in a transparent compartment on gaming tables if there is adequate security as approved by the Commission.

**§179-4-84. Use of Tokens.**

~~84.1.~~ Tokens approved by the Commission for issuance by the limited gaming facility licensee shall:

~~84.1.a.~~ 84.1. Be issued to a patron upon payment for the tokens or in accordance with a complimentary distribution program approved by the Commission;

~~84.1.b.~~ 84.2. Be capable of insertion into a video lottery terminal at the casino to activate play;

~~84.1.c.~~ 84.3. Be available as a payout from the hopper of a video lottery terminal; and

~~84.1.d.~~ 84.4. Be redeemable by a patron in accordance with the Act and this rule.

**§179-4-85. Destruction of Chips and Tokens.**

85.1. Before destroying chips or tokens, the limited gaming facility licensee shall notify the Director, in writing, of the date and the location at which the destruction will be performed,

the denomination, number, and amount of value chips to be destroyed, the description and number of nonvalue chips to be destroyed, the denomination, number, and amount of tokens to be destroyed, and a detailed explanation of the method of destruction. Unless otherwise authorized by the Commission, the destruction of chips or tokens shall be carried out in the presence of not less than two individuals, one of whom shall be an employee of the West Virginia Lottery. The licensee shall ensure that the denomination, number, and amount of value chips, and the number and description of non-value chips, destroyed are recorded in the chip inventory ledger together with the signatures of the individuals carrying out the destruction and the date on which the destruction took place.

85.2. The limited gaming facility licensee shall submit to the Commission for approval, procedures to record the receipt, inventory, storage, and destruction of tokens.

#### **§179-4-86. Destruction of Counterfeit Chips and Tokens.**

86.1. The following provisions apply to the destruction of counterfeit chips and tokens:

86.1.a. The limited gaming facility licensee shall notify the Commission and the Director, by telephone and also in writing, immediately upon the discovery of a counterfeit chip or chips or token or tokens that results in a loss of more than \$1,000.00 to the licensee;

86.1.b. ~~West Virginia Lottery Security or the West Virginia State Police~~ The Commission may take possession of the counterfeit chips or tokens; and

86.1.c. The Commission shall determine the disposition of any counterfeit chip or token, including, but not limited to, destruction of a counterfeit chip or token, in accordance with this rule.

86.2. The following provisions apply to the destruction of counterfeit chips and tokens:

86.2.a. Unless the Commission or a law enforcement officer instructs in writing, or a court of competent jurisdiction orders otherwise in a particular case, the limited gaming facility licensee shall destroy or otherwise dispose of counterfeit chips and tokens discovered in the casino in a manner approved by the Commission;

~~86.2.b. Unless the Commission or a law enforcement officer instructs in writing, or a court of competent jurisdiction orders otherwise in a particular case, the limited gaming facility licensee may dispose of coins of the United States of America or any other nation discovered to have been incorrectly used in the casino or, in the case of foreign coins, may exchange them for United States currency or coins and include the currency or coins in the casino's currency or may dispose of them in any other lawful manner; and~~

~~86.2.e;~~ 86.2.b. The limited gaming facility licensee shall notify the Commission, in writing, not less than 30 days before counterfeit chips or tokens are destroyed. The limited gaming facility licensee shall notify the Commission of all of the following information:

~~86.2.e.1.86.2.b.1.~~ The number and denominations, actual and purported, of the coins and counterfeit chips and tokens destroyed or otherwise disposed of under this rule;

~~86.2.e.2.86.2.b.2.~~ The date on which the coins and counterfeit chips and tokens were discovered;

~~86.2.e.3.86.2.b.3.~~ The date, place, and method of destruction or other disposition, including, in the case of foreign coin exchanges, the exchange rate and the identity of the bank, exchange company, or other business or person at which, or with whom, the coins are exchanged;

~~86.2.e.4.86.2.b.4.~~ The names of the occupational licensees carrying out the destruction or other disposition on behalf of the limited gaming facility licensee; and

~~86.2.e.5.86.2.b.5.~~ Other information considered necessary by the Commission to ensure compliance with the Act and this rule.

86.3. Unless otherwise approved by the Commission, not less than two people, one of whom is an agent of the West Virginia Lottery, shall be present when the counterfeit chips or tokens are destroyed.

~~86.4. Unless the Commission notifies the limited gaming facility licensee or license applicant within 30 days of the receipt of the letter set forth in subdivision 86.2.e of this rule, the method of destruction shall be considered approved.~~

**§179-4-87. Reserved. Persons Permitted to Enter Designated Gaming Area.**

87.1. An individual is only permitted to enter the designated gaming area at the licensed gaming facility if that person is a:

87.1.a. Registered overnight guest at the historic resort hotel;

87.1.b. Registered participant at a convention or event being held at the historic resort hotel, as long as at least four hundred guest rooms are occupied at the historic resort hotel on a calendar day;

87.1.c. Member of a homeowner or facility association that entitles members to substantial privileges at the historic resort hotel; or

87.1.d. Overnight guest of a member of a homeowner or facility association that entitles members to substantial privileges at the historic resort hotel.

87.2. In order to establish if at least four hundred guest rooms are occupied for the purpose of permitting convention or event participants who are not overnight guests to enter the designated gaming area, the limited gaming facility operator shall submit each gaming day a written report to the Commission's on-site security supervisor that states the number of guest

rooms and guest cottages registered as occupied at the historic resort hotel on which the gaming facility is located for the gaming day.

87.2.a. The report shall be submitted no later than 9:00 p.m. on the gaming day and shall contain any other relevant information that the Commission considers necessary to verify that four hundred rooms are in fact occupied during the gaming day.

87.2.b. As a condition of continuing eligibility for reimbursement from the Capital Reinvestment Fund established in West Virginia Code §29-25-32, the historic resort hotel shall make its room occupancy records available upon request for examination by the Commission.

87.3. In the event that the limited gaming facility operator is not also the owner of the historic resort hotel, then the limited gaming facility operator must establish, as a condition of licensing, that there is a binding agreement between the limited gaming facility operator and the historic resort hotel that the historic resort hotel will provide the necessary information to the limited gaming facility operator regarding room occupancy at the historic resort hotel. This agreement must also require that the historic resort hotel provides the Commission with information regarding room occupancy upon the Commission's request.

**§179-4-88. Submission of Accounting Procedures and Internal Controls for Complimentary Chip and Token Program.**

88.1. Not less than 30 business days before the initiation of the coupon distribution program the limited gaming facility licensee shall submit internal control procedures concerning the coupon distribution program to the Commission. The internal control procedures shall include, at a minimum, all of the following information:

88.1.a. The casino departments that will be responsible for administering the coupon distribution program;

88.1.b. The security measures that will be taken with respect to the coupons, including, but not limited to, all of the following information:

88.1.b.1. The manner in which the coupons will be ordered;

88.1.b.2. The manner in which the coupons will be inventoried upon receipt by the limited gaming facility licensee;

88.1.b.3. The manner in which the coupons will be stored and the individuals who will have access to the coupons;

88.1.b.4. The manner in which discrepancies will be handled; and

88.1.b.5. The manner in which coupons will be voided;

~~88.1.c. The casino department or departments that will be responsible for administering the coupon distribution program;~~

~~88.1.d.~~88.1.c. The manner in which the coupons will be distributed;

~~88.1.e.~~88.1.d. The schedule for conducting routine inventories of active unissued coupons. The inventory shall be conducted monthly by not less two individuals from separate casino departments. The results of the inventory shall be recorded in the coupon control ledger;

~~88.1.f.~~88.1.e. The manner in which coupons will be removed from the inventory, recorded, and voided once the coupons become inactive;

~~88.1.g.~~88.1.f. The manner in which the casino department responsible for distributing the coupons can requisition coupons from the casino department responsible for storing the coupons;

~~88.1.h.~~88.1.g. The maximum number of days in advance of an event that coupons can be requisitioned by the casino department responsible for issuing the coupons. The requisition document shall contain, at a minimum, all of the following information:

~~88.1.h.1.~~88.1.g.1. The date the requisition is prepared;

~~88.1.h.2.~~88.1.g.2. The day and date for which the coupons are needed;

~~88.1.h.3.~~88.1.g.3. The type or types of coupons that are requested;

~~88.1.h.4.~~88.1.g.4. The number of coupons required;

~~88.1.h.5.~~88.1.g.5. The name, title, and occupational license number of the individual completing the requisition; and

~~88.1.h.6.~~88.1.g.6. The name, title, occupational license number, and signature of the supervisor authorizing the requisition;

~~88.1.i.~~88.1.h. The casino department responsible for storing the coupons shall complete all of the following information before the coupons are given to the casino department responsible for distributing the coupons:

~~88.1.i.1.~~88.1.h.1. The name, title, occupational license number, and signature of the representative filling the order;

~~88.1.i.2.~~88.1.h.2. The beginning serial number of the coupons issued;

~~88.1.i.3.~~88.1.h.3. The ending serial number of coupons issued;

~~88.1.i.4.~~88.1.h.4. The total number of and type of coupons issued;

~~88.1.i.5~~88.1.h.5. The name, title, occupational license number, and signature of the supervisor; and

~~88.1.i.6~~88.1.h.6. A record and explanation of any coupons that were voided due to discrepancies;

88.1.i. The casino department responsible for storing the coupons shall enter the information in paragraphs 88.1.i.2 to 88.1.i.4 of this subdivision in the coupon control ledger.

88.1.j. The manner in which the coupons will be issued. The limited gaming facility licensee shall require that coupons shall be stamped with the date of issuance;

88.1.k. The location of the locked cabinet in which the coupons will be stored before the distribution of the coupons;

88.1.l. The manner in which coupons may be redeemed for chips or tokens, or both, by patrons;

88.1.m. The manner in which coupons redeemed by patrons will be canceled;

88.1.n. The manner in which the coupons distributed, coupons not distributed, and coupons issued will be reconciled;

88.1.o. The manner in which coupons that have been issued, but not distributed to patrons in the appropriate time frame, will be voided and reconciled; and

88.1.p. The manner in which a dealer or cage employee shall receive and account for coupons redeemed by patrons.

88.2. The Commission shall, in writing, approve the internal control procedures in total or in part.

88.3. The limited gaming facility licensee shall revise and resubmit any portion of the internal control procedures not approved by the Commission within the time frame established by the Commission. The limited gaming facility licensee shall revise and resubmit the internal control procedures until all portions of the internal control procedures have been approved or approval cannot be obtained.

88.4. The limited gaming facility licensee may not use an internal control procedure unless the internal control procedure has been approved by a vote of the Commission.

88.5. If the Commission determines, at any time, that approved internal control procedures are not adequate to ensure compliance with the Act and this rule, it may direct the limited gaming facility licensee to amend its internal control procedure in accordance with this rule.

88.6. In lieu of manual procedures prescribed in this section 88, the Commission may approve a limited gaming facility licensee's automated process if the control of the process is sufficient for the Commission's purposes.

**§179-4-89. Amendments to Internal Control Procedures.**

89.1. The limited gaming facility licensee shall make amendments to the internal control procedures with respect to complimentary chip and token programs as follows:

89.1.a.89.1. Unless otherwise provided by the Commission, the limited gaming facility licensee shall submit amendments to the internal control procedures to the Commission not less than twenty business days before utilizing the amended internal control procedure;

89.1.b.89.2. The Commission or its designee shall, in writing, approve the amendment to the internal control procedure in total or in part; and

89.1.c.89.3. The limited gaming facility licensee shall not use an amendment to internal control procedures unless the amendment to the internal control procedure has been approved, in writing, by the Commission.

**§179-4-90. Coupon Accounting Procedures and Distribution Program.**

90.1. Not less than two casino departments shall be responsible for administering the coupon accounting procedures and distribution program. One casino department shall be responsible for storing the coupons and the other department shall be responsible for issuing the coupons.

90.2. The limited gaming facility licensee shall ensure that coupons received from a supplier are opened and examined by not less than two individuals from different casino departments. The limited gaming facility licensee shall ensure that any deviations in the coupons ordered and coupons received are recorded in compliance with this rule and are reported immediately to the appropriate supervisor.

90.3. The limited gaming facility licensee shall maintain a coupon control ledger in the manner prescribed by the Commission. The coupon control ledger shall contain, at a minimum, all of the following information:

90.3.a. The date the coupons were received;

90.3.b. The type and quantity of coupons received;

90.3.c. The beginning serial number of the coupons received;

90.3.d. The ending serial number of the coupons received;

90.3.e. The purchase order number or requisition number for the coupons

received;

90.3.f. The signatures and occupational license numbers of all individuals who examined the coupons upon receipt of the coupons;

90.3.g. The date the coupons were issued to the casino distribution department;

90.3.h. The beginning serial number of the coupons issued to the casino distribution department;

90.3.i. The ending serial number of the coupons issued to the casino distribution department;

90.3.j. The number and quantity of coupons issued to the casino distribution department;

90.3.k. The balance of unissued coupons on hand;

90.3.l. The name, title, occupational license number, and signature of the representative issuing the coupons;

90.3.m. The name, title, occupational license number, and signature of the representative receiving the issued coupons;

90.3.n. A record of any coupons that are distributed to patrons; and

90.3.o. A record and explanation of any deviations from the licensed gaming facility licensee's coupon specifications noted.

90.4. The casino department responsible for distributing the coupons shall maintain a daily coupon reconciliation form. One daily coupon reconciliation form shall be completed to account for all individuals responsible for distributing coupons to patrons. The daily coupon reconciliation form shall contain, at a minimum, all of the following information:

90.4.a. The date;

90.4.b. The type of coupon being issued;

90.4.c. The beginning and ending serial numbers of the coupons the individual has to distribute to patrons;

90.4.d. The quantity of coupons the individual has to distribute to patrons;

90.4.e. The total number of coupons the individual distributed to patrons;

90.4.f. The beginning and ending serial numbers of coupons not distributed to

patrons;

90.4.g. The total number of coupons not distributed to patrons;

90.4.h. The serial numbers of any coupons that were voided and the reason the coupons were voided;

90.4.i. The name, title, occupational license number, and signature of the individual distributing the coupons to patrons and completing the form;

90.4.j. The name, title, occupational license number, and signature of the occupational licensee's supervisor; and

90.4.k. Any variations discovered and an explanation of the variations.

90.5. In lieu of any manual procedures prescribed in this section 90, the Commission may approve a limited gaming facility licensee's automated process if the control of the automated process is sufficient for the Commission's purposes.

#### **§179-4-91. Coupon Requirements.**

91.1. Coupons used in the complimentary chips and token program shall be original instruments and shall contain, at a minimum, all of the following information:

91.1.a. Any serial number assigned to the coupon;

91.1.b. A description of the value of the coupon;

91.1.c. The location or locations where the coupon may be redeemed;

91.1.d. The name of the limited gaming facility licensee;

91.1.e. The date or dates for which the coupon is valid; and

91.1.f. The Lottery-specified identifier symbol; and

~~91.1.f.~~91.1.g. Any other information considered necessary by the Commission to ensure compliance with the Act and this rule.

91.2. If a multiple-part coupon is used, then each part of the coupon shall contain the information set forth in this subsection.

91.3. Coupons shall be designed and manufactured so that the denomination and type of coupon can be determined utilizing the surveillance system.

#### **§179-4-92. Records.**

92.1. The limited gaming facility licensee shall maintain the records required by this rule for at least five years the current year and the previous two years unless they are sooner audited by the Commission or its designee.

92.2. The limited gaming facility licensee shall allow the Commission access to, or provide copies of, the records maintained under this rule upon request by the Commission.

92.3. All records required to be held by the Commission for a specific period of time may be required to be retained for longer periods pursuant to other state or federal laws.

**§179-4-93. Cashing Winning Video Lottery Tickets; Calculating the Ten-Day Rule.**

A video lottery credit ticket or voucher must be cashed within 10 days after it is printed. The ten-day period shall be calculated as follows:

93.1. Redemption of a video lottery credit ticket or voucher can only occur during the scheduled hours of video lottery gaming as those hours have been approved by the Commission.

93.2. Ten days is calculated by excluding the day the credit ticket or voucher was printed and including the tenth subsequent day until the close of video lottery gaming that began on said tenth subsequent day. This ten-day calculation will not be extended regardless of whether the tenth day falls on a Saturday, Sunday or legal holiday, or when the limited gaming facility is closed. Examples:

93.2.a. Example 1 – A video lottery credit ticket or voucher is printed at 5:00 p.m. on November 10. On November 20, the limited gaming facility begins video lottery gaming at noon and ends video lottery gaming at 2:00 a.m.. That video lottery credit ticket or voucher is redeemable until 2:00 a.m.

93.2.b. Example 2 - A video lottery credit ticket or voucher is printed at 1:00 a.m. on November 11; this is counted as game day November 10. On November 20, the limited gaming facility begins video lottery gaming at noon and ends video lottery gaming at midnight. That video lottery credit ticket or voucher is redeemable until midnight on November 20.

93.2.c. Example 3 - A video lottery credit ticket or voucher is printed on January 18; under normal conditions, the deadline for cashing would be January 28. Flooding occurs which closes the limited gaming facility on January 20; the limited gaming facility is does not reopen until February 20. February 20 will be considered to be day ten for cashing video lottery vouchers printed on January 18.

**§179-4-94. Increasing the Number of Authorized Video Lottery Terminals at the Limited Gaming Facility.**

94.1. Upon the granting of its license, the operator of the limited gaming facility shall request an initial number of video lottery terminals to be placed in the gaming facility. The

Commission may grant the whole amount requested, or may grant only a portion of the amount requested by the operator.

94.2. Any expansion of the number of video lottery terminals to be authorized for the limited gaming facility beyond that initial amount may only be granted after the following procedure has been followed:

94.2.a. The requesting gaming facility must provide to the Director of the West Virginia Lottery, at least sixty (60) days before a meeting where the Commission has docketed the expansion issue, a *pro forma* statement showing the change of the limited gaming facility's financial position over the twelve month period immediately following the meeting at which the West Virginia Lottery Commission may approve the expansion. If the expansion is to be in stages, or is to begin more than eight months after Commission approval, the Commission may elect to approve a reduced number of video lottery terminals for the expansion. If the expansion is not completed within eight (8) months, the Commission may require updated financial information.

94.2.b. The requesting limited gaming facility licensee must provide to the Director of the West Virginia Lottery, at least sixty (60) days before a meeting where the Commission has docketed the expansion issue, complete floor plan drawings of the video lottery gaming areas of the licensed limited gaming facility showing proposed locations of additional video lottery terminals and relocation of present video lottery terminals. All video lottery terminals, both present and future, must be identified by manufacturer name and model number. Closed circuit television security cameras and their view or sweep angles must also appear on the floor plans.

94.2.c. If the expansion of the number of authorized video lottery terminals will require the limited gaming facility licensee or a subcontractor to add temporary [construction, etc.] or permanent [service technicians, floor attendants, validation managers, security officers, etc.] employees to the limited gaming facility's workforce, the requesting limited gaming facility licensee must provide to the Director of the West Virginia Lottery, at least sixty (60) days before a meeting where the Commission has docketed the expansion issue, a detailed statement of the number of new jobs in each identifiable job category together with an estimate of the annual payroll costs increase over the subsequent 24-month period. The licensee should estimate the number of West Virginia residents who will be employed by the requested expansion.

94.2.d. Within thirty (30) days of his/her receipt of information required above, the Director of the West Virginia Lottery will forward copies of all such information to each Commissioner. If the Commissioners and the Director determine that the application materials are complete and in order, the Director will publish the notice as provided for in this rule.

94.2.e. At least thirty (30) days before a meeting where the Commission has docketed the expansion issue, the West Virginia Lottery will place a 2" by 2" commercial advertisement in a daily newspaper of general circulation in the county where the licensed limited gaming facility is located. Such advertisement is to run at least once per week for four successive weeks and will appear either in the newspaper's sports pages or entertainment pages. The ad will contain the following facts:

94.2.e.1. The licensee currently operates 'x' number of video lottery terminals;

94.2.e.2. The licensee is currently authorized by the West Virginia Lottery Commission to operate up to 'y' number of video lottery terminals;

94.2.e.3. The licensee is seeking permission from the West Virginia Lottery Commission to operate 'z' number of additional video lottery terminals;

94.2.e.4. The West Virginia Lottery Commission has scheduled a public meeting to consider the licensee's expansion request at a particular time and place determined by the Director of the West Virginia Lottery. [The meeting will be held at a neutral site away from limited gaming facility property];

94.2.e.5. To determine whether the proposed expansion is in the best interest of the citizens of West Virginia, the Commission will accept written or oral statements from citizens at the meeting; however, written statements must be received by the Director of the West Virginia Lottery at least one business day before the scheduled Commission meeting.

94.2.f. If the limited gaming facility licensee fails to provide any required information by the appropriate deadline, or if the information is judged by the Director and Commission to be insufficient, the expansion issue will be removed from the Commission's monthly meeting agenda until such time as the limited gaming facility licensee makes the additional information available to the Commission.

#### **§179-4-95. Video Lottery Electronic Player Tracking Systems.**

95.1. A "Player Tracking System" is an electronic system attached to and integrated with one or more video lottery terminals at the limited gaming facility licensee that is accessed by persons who have voluntarily agreed to be participants in a player club or player benefits program by whatever name called. This type of computer system is sometimes called a cash management system or a slot accounting system by the general gaming industry. Such player tracking systems at the limited gaming facility licensee with video lottery machines under the control and regulation of the West Virginia Lottery may exist under certain conditions set forth in this rule.

95.2. A manufacturer of associated hardware and software having to do with player tracking, shall not distribute and/or install player tracking hardware and software within video lottery terminals at the limited gaming facility licensee unless it has received a manufacturer permit from the West Virginia Lottery Commission.

95.3. An electronic player tracking system must complete a three-step approval process prior to installation:

95.3.a. Step 1: The manufacturer must submit to the Director of the West Virginia Lottery a complete, comprehensive and technically accurate description and explanation in both

technical and lay language of the equipment and its intended usage. The West Virginia Lottery technical staff will review the documentation and may pose telephone or written questions to clarify certain points. When all points are clarified, the Director will send written notice of the West Virginia Lottery's approval for testing to the Commission, the manufacturer and the laboratory authorized by the Lottery Commission. Any system that does not fully comply with this Act, the West Virginia Racetrack Video Lottery Act, and all Lottery Commission Rules must be rejected by letter to the manufacturer.

95.3.b. Step 2. All hardware and software of an electronic player tracking system for placement in the limited gaming facility licensee must be subject to testing and approval from the Lottery's designated testing laboratory.

95.3.c. Step 3. When the West Virginia Lottery Commission receives the laboratory testing report, it will vote whether to approve the installation of the player tracking system. In no instance may the limited gaming facility licensee install or implement a video lottery electronic player tracking device without the Lottery Commission's authorization.

95.4. All data captured as part of a player tracking system must be obtained with full disclosure to the participating parties. Eligibility requirements, such as age, employment or residence shall be set forth by the limited gaming facility licensee in a written policy and subject to approval by the Lottery Director and disclosed to all potential participants.

95.5. Each player who chooses to allow his or her personal information to be included in an electronic database as part of a tracking system, must be informed, in writing, in advance of participation, as to all possible uses of the information he or she provides. As an example: "The the limited gaming facility licensee may use the information without compensation to the participant."

95.6. The data obtained through electronic tracking mechanisms shall be the sole property of the limited gaming facility licensee which purchased the player tracking system. When the limited gaming facility licensee's corporate ownership encompasses multiple entities, the player tracking information shall not be viewed as the property of all such entities, but only the individual licensed subsidiary for which the data was intended by the player.

95.6.a. The West Virginia Lottery reserves the right to monitor and view the information obtained from player tracking endeavors at the limited gaming facility licensee. At no time will personal information obtained from an electronic player tracking system for video lottery at the limited gaming facility licensee be sold or shared with entities external to the limited gaming facility licensee other than its parent company, if any, and the West Virginia Lottery shall not in any event make such information part of its files or records.

95.6.b. The West Virginia Lottery shall only take physical possession of such information upon request by the West Virginia State Police to do so. If the West Virginia Lottery takes physical possession of such information on behalf of the West Virginia State Police, then the physical possession of such information shall be considered to be information retained for the benefit of the West Virginia State Police for the purpose of the detection or investigation of a

crime, and as such is exempt from discovery under the West Virginia Freedom of Information Act pursuant to West Virginia Code §29B-1-4(4). The West Virginia Lottery shall transfer complete physical possession of the requested information to the West Virginia State Police as soon as practicable.

95.7. Mail, E-mail or telephone contact with any player on the tracking list will not be limited to a specific number of contacts per calendar month; however, no contacts external to the premises of the limited gaming facility licensee may be made with any player who has requested in-writing that no contacts be made to him or her. The text of all such contacts must be approved in advance by the Director of the West Virginia Lottery or his or her designee under the Director's general statutory power to review advertising. Inducements offered to players on the tracking list shall be limited to cash, meals, beverages, travel, lodging, merchandise and free video lottery plays. At the player's request, licensee may substitute cash for a non-cash inducement only if the licensee has advertised the cash equivalent value of the non-cash inducement in advance to member players. Any player on a tracking list at the limited gaming facility licensee may request that the limited gaming facility licensee stop sending the player promotional offers, including free slot play, match play coupons, and coupons for amenities on the premise of the limited gaming facility licensee.

95.8. If the limited gaming facility licensee collects player tracking data, then it shall ensure that participating players may have all information concerning player identities, residency, play profiles, credits or points earned and other such items, as collected by a tracking system, erased from a track's database upon the request of the player or the request of his or her executor, administrator, guardian, committee, or attorney-in-fact. To this end, the limited gaming facility licensee employing a player tracking system shall operate a 24-hour-per-day "hot line" telephone answering system to accommodate a player's decision to remove his or her name from the player list. The hot line may be staffed by personnel, or it may be operated as a monitored electronic system, or a combination of the two. The limited gaming facility licensee may require the player to sign a subsequent release form to assure that the player and not some other person was the person who made the telephone request. A record of the name removed must be retained for West Virginia Lottery inspection. Furthermore, once player information is removed from the record, whether it is for failure to continue membership or for any other reason, the information may not be utilized in any other way, or given or sold to any entity, and the player may not thereafter be re-enrolled unless the re-enrollment is requested in writing by the player. The necessary exception to this general rule is the allowance of a grace period during which time mass mailing campaigns already in progress will be allowed to complete the cycle if there is no practical way to remove the requesting player's name from the lists.

95.9. If the limited gaming facility licensee operates a player tracking system, then it will prepare a detailed annual report of player data that have been removed from the record, including the reasons for such removals, which shall be available for inspection by the Lottery Director or his or her designee. This annual report will be based on the calendar year and will be completed and available for West Virginia Lottery review at the licensed limited gaming facility not later than March 31<sup>st</sup> of the following year.

95.10. The Lottery Commission reserves the right to amend this policy, as necessary,

pending the development of new technology or new methodologies used to collect information about video lottery players.

95.11. Any player disputes relating to the awarding of points, gifts or free plays shall be resolved by the licensed limited gaming facility independent of the West Virginia Lottery. Any unearned credits awarded to a player in error by a player tracking system shall not constitute a charge against gross terminal income. The limited gaming facility licensee must prepare and submit to the West Virginia Lottery a semi-annual report detailing player tracking complaints and their resolutions.

95.12. Any reports generated by a player tracking system shall not in any case form the basis for a claim by the limited gaming facility licensee against the West Virginia Lottery concerning calculations by the West Virginia Lottery's central control computer.

**§179-4-96. Paper Currency.**

The Commission hereby delegates its authority to approve bill acceptor software changes to the Director. New bill acceptors (hardware/initial software) will still be approved by Commission vote.

**§179-4-97. Approval of Non-Tested Video Lottery Terminals and Games for Specific Non-Gaming Purposes and For Limited Periods Of Time.**

For the limited purpose of allowing an un-tested video lottery terminal or video lottery game into West Virginia for non-gaming functions such as trade shows, demonstrations for the Lottery and like functions, the State Lottery Commission hereby delegates to the Director the power to approve such a video lottery terminal or game provided that the time frame for such approval is never more than thirty days.

**§179-4-98. Local and Wide Area Intrastate Progressive Games.**

98.1. A progressive game is as follows:

98.1.a. It is a video lottery game with a jackpot feature. Only when a video lottery terminal displays the required sequence of numbers, letters or symbols is the jackpot won. At all other times, the jackpot wager contributions are allowed to accumulate, or "progress," in a jackpot prize pool until the jackpot prize is won. In this regard, it is similar to other jackpot games offered by the West Virginia Lottery such as *PowerBall*®.

98.1.b. A progressive video lottery game may be offered to the public in four different ways:

98.1.b.1. It may be contained entirely within the memory of one video lottery terminal;

98.1.b.2. It may be linked with other like-programmed video lottery

terminals at the limited gaming facility licensee:

98.1.b.3. It may be linked among the limited gaming facility licensee and one or more of West Virginia's four pari-mutuel racetracks; or

98.1.b.4. It may link to the limited gaming facility licensee and to one or more similar venues in one or more states.

98.1.c. The limited gaming facility licensee may not conduct a progressive video lottery game without the expressed consent of the State Lottery Commission.

98.1.d. To accumulate the "jackpot" prize, the game is designed by its licensed manufacturer to pay part of the payout limit for the regular game being played and to accrue the residual part of the payout limit to pay a *pari-mutuel* jackpot prize. Example: "A ninety five percent (95%) payout game may be configured as ninety-one and one-half percent (91½%) payment for the regular game and three and one-half percent (3½%) reserved to fund the jackpot."

98.1.e. As the jackpot builds, regular game prizes are paid to players who win lower prizes but who don't win the jackpot. Once someone wins the jackpot prize, the jackpot starts to build again with a designed reset amount.

98.1.f. In a progressive game confined to a single video lottery terminal, a progressive jackpot may be transferred to another progressive video lottery terminal at the same location in the event of the video lottery terminal malfunction or replacement of the video lottery terminal for some other good reason.

98.1.g. When the maximum jackpot limit is reached, the jackpot amount must be permitted to remain available until it is won by a player or transferred to another progressive link.

98.1.h. Records shall be maintained of the amounts shown on a progressive jackpot meter or display. The records must be retained for a period of three years unless permission to destroy them earlier is given by the Director in writing.

98.1.i. The video lottery terminal must be linked to at least one meter showing the payoff or jackpot amount that is visible to all players who are playing a video lottery terminal that may potentially win the progressive amount. This meter is the progressive meter.

98.2. By an agreement executed among the the limited gaming facility licensee and one or more licensed racetracks and approved by the Commission, groups of video lottery terminals at the limited gaming facility licensee and each licensed racetrack may be linked together with other such groups of terminals at the limited gaming facility licensee and all other licensed racetracks and the central monitoring system at the West Virginia Lottery to form a wide-area [multi-racetrack] progressive video lottery game with a single progressive jackpot.

98.3. Each video lottery terminal ~~en~~ connected to a wide-area progressive system shall:

98.3.a. All require the same maximum wager; or

98.3.b. If requiring different maximum wagers, utilize the expected value of winning the top award by setting the odds of winning the top awards, within .1% of the target value, in proportion to the amount wagered for the eligible progressive combinations. The method of equalizing the expected value of winning the top award shall be conspicuously displayed on each terminal connected to the system.

98.4. The central monitoring system for the intrastate wide-area game(s) will be the Lottery's computer system located in the computer room of the West Virginia Lottery and/or its hot backup site. In all cases, the limited gaming facility licensee and the licensed racetracks will supply and test central monitoring system software to ensure that it is sufficient to control the wide-area games and to provide adequate and correct reports that are required by the West Virginia Lottery.

98.5. The following procedure outlines how a jackpot is to be verified:

98.5.a. When a jackpot is won, every participating licensee, upon its request, shall have the opportunity to inspect the video lottery terminal, the EPROM, the error events received by the central monitoring system and any other data which could reasonably be used to ascertain the validity of the jackpot.

98.5.b. The central monitoring system shall produce reports that will clearly demonstrate the method of arriving at the jackpot amount. This includes the credits contributed at the beginning of the polling cycle immediately following the previous jackpot win and all credits contributed up to, and including, the polling cycle, which includes the jackpot signal. Credits contributed to the system after the jackpot occurs in real-time, but during the same polling cycle are considered to have been contributed to the progressive amount prior to the jackpot win.

98.5.c. Jackpots above a set threshold amount may be paid in down-payment and balance installments to allow for transfer of contribution funds to the payer licensee as long as each video lottery terminal clearly displays such information related to short term, installment payments. The second or balance payment must be paid to the winner not later than ten (10) state business days after the jackpot is won.

98.5.d. Every three seconds the protocol updates the terminal controller to determine the progressive jackpot. Two or more jackpots that occur in the same three second window will be determined to have occurred simultaneously; and therefore, each "winner" shall receive his or her *pro rata* share of the amount shown on the meter. The time stamped on the ticket is irrelevant in determining a winner; the primary evidence of a winner or winners shall be the information contained on the host system. The possibility of jackpot sharing must be clearly announced on each progressive video lottery terminal.

98.5. The following procedure outlines how the accounting and reporting of a jackpot shall be done:

98.5.a. In calculating gross terminal revenue for each track and the limited gaming facility, the West Virginia Lottery will deduct from each participating licensee, the amount of established percentage contribution multiplied by the daily amount played at the track and the limited gaming facility for each progressive game. The sum of the contributions to all local progressives and wide-area progressives in play at each racetrack will be a reduction from the reported gross terminal revenue. The contribution percentage may be different for each progressive. The West Virginia Lottery shall maintain a record of the contributions, by licensee, for each individual progressive.

98.5.b. The West Virginia Lottery will collect the daily contributions made to the wide-area progressive jackpots through an electronic debit from the limited gaming facility licensee and each licensee racetrack as a part of the daily electronic funds transfer process. Contributions will be posted to the limited gaming facility licensee's general ledger account.

98.5.c. When a wide-area progressive jackpot is won, the West Virginia Lottery will calculate the percentage of contributions from the limited gaming facility licensee and each participating licensee racetrack. This percentage will be used to determine the limited gaming facility licensee's and each licensee racetrack's portion of the reset value. The reset portion will be collected through an electronic debit from each participating racetrack and the limited gaming facility as a part of the daily sweep for the day the jackpot was won. Within eight (8) state business days the West Virginia Lottery will make an electronic fund transfer of the total jackpot amount to the limited gaming facility licensee or the licensee racetrack where the jackpot was won.

98.5.d. When the wide-area progressive video lottery game is operated by a permitted manufacturer rather than by the Lottery's central monitoring computer system, the manufacturer's monitoring system must supply daily reports to the Lottery and/or its designee(s), that support and verify the economic activity of the game(s), indicating the amount of, and basis for, the current jackpot contribution by that racetrack or that limited gaming facility. Such reports shall include, but not be limited to, a "detail report" that lists for each video lottery terminal, summarized by location, the cash in, credits played, credits won and cash out amounts, and progressive contribution totals as such terms are commonly understood by the West Virginia Lottery and the participating licensees.

98.5.e. Upon the request of any licensee participating in a wide-area progressive video lottery system, a copy of the journals prepared by the West Virginia Lottery in compiling the wide-area contributions and calculation of the reset contribution will be made available in electronic format.

98.5.f. In the event a participating licensee ceases operations and a progressive jackpot is awarded subsequent to the last day of the final month of the licensee's operation, the licensee may not make claim to any part of its contributions to that particular progressive game prize pool.

**§179-4-99. Who May Access Video Lottery Terminals.**

The only natural persons permitted to open the main access door to a video lottery terminal located at the licensed gaming facility and to access the interior of the video lottery terminal for any reason must either:

99.1. Have an occupational license for the purpose of employment at the licensed gaming facility as a video lottery service technician;

99.2. Have an occupational license for the purpose of employment at the licensed gaming facility as a floor attendant;

99.3. Is an authorized employee of the West Virginia Lottery; or

99.4. Is an authorized employee of the West Virginia Lottery's independent testing laboratory.

**§179-4-100. Promotional Credits.**

100.1. Promotional credits shall only be deducted from the gross terminal income when the Commission has approved, in advance, the total amount and conditions under which the promotional credits may be redeemed at the licensed limited gaming facility or at a licensed racetrack.

100.2. The "total amount" of promotional credits that the licensed gaming facility or a licensed racetrack may redeem shall be based on a maximum percentage of that gaming facility or racetrack's credits played for the time period in the previous calendar year that corresponds with the time period for proposed arrangement. For example: *If Racetrack A proposed a maximum percentage of 3% for January, February, and March of 2010, then the maximum amount of promotional credits allowed to be redeemed by Racetrack A shall be 3% of that racetrack's credits played for January, February, and March of 2009.* In its first year of operation, the gaming facility's proposed maximum percentage shall be based on the credits played of the licensed racetrack that generated the least credits played in the preceding calendar year.

100.3. The Commission will only approve the gaming facility or a racetrack's proposal for a specific time frame.

100.3.a. Redeemable promotional credits may not be carried forward beyond the approved time frame.

100.3.b. Available redemption of promotional credits shall be ascribed to the amount of allowable promotional credits approved for the time frame in which the promotional credits were actually redeemed.

100.4. Any promotional credits redeemed beyond the amount allowed by the Commission under this rule shall be the responsibility of the gaming facility or racetrack, and shall not constitute a deduction from the gross terminal income.

100.5. The Director may recommend the total amount of promotional credits to be used by the gaming facility or a racetrack, and the time period in which that amount may be redeemed. The gaming facility and the or a racetrack may agree to the Director's recommendation, or may present a separate proposal before the Commission. The Commission is under no requirement to adopt the Director's recommendation, or to accept a proposal made by the gaming facility or any racetrack.

100.6. The allowance of promotional credits to the gaming facility or a racetrack is a revocable privilege. The Commission may withdraw its approval of promotional credits for the gaming facility or a racetrack for reasons including, but not limited to:

100.6.a. Evidence of theft, fraud, fraudulent schemes, or other activity relating to promotional credits that would threaten the integrity of the game;

100.6.b. Evidence that use of approved promotional credits by the gaming facility or a racetrack would be against the public interest of the State of West Virginia;

100.6.c. A substantial malfunction with the promotional credits or the programs that enable the Lottery to accurately account for promotional credits; or

100.6.d. Actions on the part of the gaming facility or racetrack that seriously encumber the Lottery's ability to implement, continue, or account for promotional credits.

~~§§179-4-92 through 100. [Reserved]~~

## **PART 5. INTERNAL CONTROL PROCEDURES**

### **§179-4-101. Minimum Internal Control Standards; Purpose.**

101.1. The Commission shall establish minimum internal control standards for the operation of West Virginia Lottery table games at the limited gaming facility, which shall apply to all persons and entities licensed under this Act, as well as all related parties.

101.2. The limited gaming facility licensee shall establish its own minimum internal control standards for the operation of West Virginia Lottery table games at the limited gaming facility, which must be approved by the Commission.

101.3. For each video lottery game, the supplier with a level one license that manufactured that video lottery game shall establish rules for that game, which must be approved by the Commission.

~~101.1.101.4.~~ The procedures of the internal control system are designed to ensure all of the following:

~~101.1.a.101.4.a.~~ That assets of the limited gaming facility licensee are safeguarded;

~~101.1.b.101.4.b.~~ That the financial records of the limited gaming facility licensee are accurate and reliable;

~~101.1.c.101.4.c.~~ That the transactions of the limited gaming facility licensee are performed only in accordance with the specific or general authorization of this part;

~~101.1.d.101.4.d.~~ That the transactions are recorded adequately to permit the proper recording of the adjusted gross receipts, fees, and all applicable taxes;

~~101.1.e.101.4.e.~~ That accountability for assets is maintained in accordance with generally accepted accounting principles;

~~101.1.f.101.4.f.~~ That only authorized personnel have access to assets;

~~101.1.g.101.4.g.~~ That recorded accountability for assets is compared with actual assets at reasonable intervals and appropriate action is taken with respect to any discrepancies;

~~101.1.h.101.4.h.~~ That the internal control functions, duties, and responsibilities are appropriately segregated and performed in accordance with sound practices by competent, qualified personnel and that no employee of the limited gaming facility licensee is in a position to perpetuate and conceal errors or irregularities in the normal course of the employee's duties; and

~~101.1.i.101.4.i.~~ That gaming is conducted with integrity and in accordance with the Act and this rule.

#### **§179-4-102. Commission Approval of Internal Control System.**

102.1. The limited gaming facility's internal control system must meet the provisions of the Commission's minimum internal control standards.

102.2 The limited gaming facility licensee shall describe, in a manner that the Commission may approve or require, its administrative and accounting procedures in detail in a written system of internal control. A written system of internal controls shall include a detailed narrative description of the administrative and accounting procedures designed to satisfy the requirements of this rule. Additionally, the description shall include a separate section for all of the following:

~~102.1.a.102.2.a.~~ An organizational chart depicting appropriate segregation of internal control functions and responsibilities;

~~102.1.b.~~102.2.b. A description of the duties and responsibilities of each position shown on the organizational chart;

~~102.1.e.~~102.2.c. A detailed, narrative description of the administrative and accounting procedures designed to satisfy the requirements of this rule; and

~~102.1.d.~~102.2.d. A separate section for all of the following:

~~102.1.d.1.~~102.2.d.1. The physical characteristics of the drop box and tip box;

~~102.1.d.2.~~102.2.d.2. The transportation of drop and tip boxes to and from gaming tables;

~~102.1.d.3.~~102.2.d.3. The procedures for table inventories;

~~102.1.d.4.~~102.2.d.4. The procedures for opening and closing gaming tables;

~~102.1.d.5.~~102.2.d.5. The procedures for fills and credits;

~~102.1.d.6.~~102.2.d.6. The procedures for accepting and reporting tips and gratuities;

~~102.1.d.7.~~102.2.d.7. The procedures for transporting chips and tokens to and from gaming tables;

~~102.1.d.8.~~102.2.d.8. The procedures for shift changes at gaming tables;

~~102.1.d.9.~~102.2.d.9. The drop bucket characteristics;

~~102.1.d.10.~~102.2.d.10. The transportation of drop buckets to and from ~~electronic gaming devices~~ video lottery terminals;

~~102.1.d.11.~~102.2.d.11. The procedures for chip and token purchases;

~~102.1.d.12.~~102.2.d.12. The procedures for hopper fills;

~~102.1.d.13.~~102.2.d.13. The procedures for the transportation of ~~electronic gaming devices~~ video lottery terminals;

~~102.1.d.14.~~102.2.d.14. The procedures for hand-paid jackpots;

~~102.1.d.15.~~102.2.d.15. The layout and physical characteristics of the cashier's cage;

~~102.1.d.16~~102.2.d.16. The procedures for accounting controls;

~~102.1.d.17~~102.2.d.17. The procedures for the exchange of checks submitted by gaming patrons;

~~102.1.d.18~~102.2.d.18. The procedures for credit card and debit card transactions;

~~102.1.d.19~~102.2.d.19. The procedures for the acceptance, accounting for and redemption of patron's cash deposits;

~~102.1.d.20~~102.2.d.20. The procedures for the control of coupon redemption and other complimentary distribution programs;

~~102.1.d.21~~102.2.d.21. The procedures for federal cash transactions reporting; and

~~102.1.d.22~~102.2.d.22. The procedures for computer backups and assuring the retention of financial and gambling operation.

~~102.1.e~~102.2.e. Other items as the Commission may require.

~~102.2~~102.3. Not less than 90 days before the gambling operation commences, unless otherwise directed by the Commission, the limited gaming facility licensee shall submit, to the Commission, a written description of its internal control system that is designed to satisfy the requirements of subsections 102.1 and 102.2 of this rule. If the written internal control system is the initial submission to the Commission, then a letter shall be submitted from an independent certified public accountant selected by the applicant or licensee and approved by the Commission stating that the licensee's written system has been reviewed by the accountant and is in compliance with the requirements of subsections 102.1 and 102.2 of this rule. The Commission shall review each submission required by this subsection of this rule and shall determine whether it conforms to the requirements of subsections 102.1 and 102.2 of this rule and whether the system submitted provides adequate and effective controls for the operations of the licensee. If the Commission finds any insufficiencies, then the Commission shall specify the insufficiencies, in writing, and submit the written insufficiencies to the licensee. The limited gaming facility licensee shall make appropriate alterations. The limited gaming facility shall not commence gambling operations until a system of internal controls is approved.

#### **§179-4-103. Amendments to Internal Control Procedures.**

~~103.1~~. All of the following provisions apply to amendments to the internal control procedures:

~~103.1.a~~103.1. Unless otherwise provided by the Commission, amendments to any portion of the internal control procedures shall be submitted to the Commission not less than 30

days before the amended internal control procedure is used;

~~103.1.b.~~103.1. The Commission shall vote to approve the amendment to the internal control procedure in total or in part; and

~~103.1.e.~~103.1. An amendment to internal control procedures may not be used by the limited gaming facility licensee unless the amendment to the internal control procedure has been approved by a vote of the Commission;

**§179-4-104. Internal Control Emergency Procedures.**

104.1. In the event of an emergency, the limited gaming facility licensee may temporarily amend an internal control procedure. The Director ~~or his or her designee~~ must concur that an emergency exists before the limited gaming facility licensee may amend an internal control procedure.

104.2. The limited gaming facility licensee shall report any emergency temporary amendment of the internal control procedures to the Director or his or her designee immediately.

104.3. The limited gaming facility licensee shall submit a description of the emergency temporary amendment of the internal control procedures and the circumstances necessitating the emergency amendment to the Commission promptly within five calendar days of the amendment.

104.4. As soon as the circumstances necessitating the emergency temporary amendment to the internal control procedures abate, the limited gaming facility licensee shall resume compliance with the approved internal control procedures.

**§179-4-105 through 110. [Reserved]**

**PART 6. SECURITY AND SURVEILLANCE**

**§179-4-111. Surveillance and Recording Systems; Staffing; Installation of Different or New Types of Audio or Visual Recording or Surveillance Technology.**

111.1. The limited gaming facility licensee shall require that the casino surveillance room be staffed by an occupational licensee employed to work in the surveillance department at all times that any of the following occur:

111.1.a. Gaming;

111.1.b. The drop ~~bucket~~ box collection process;

111.1.c. The hard count process;

111.1.d. The currency collection process;

111.1.e. The soft count process;

111.1.f. The temporary holding cell is occupied;

111.1.g. Armored car cash deliveries and pickups; and

111.1.h. Other times considered necessary by the Commission to ensure compliance with the Act and this rule.

111.2. Subject to approval of the Commission, the limited gaming facility licensee may install different or new types of audio or visual recording or surveillance technology in the casino and related facilities for purposes of compliance with the Act or this rule.

#### **§179-4-112. Surveillance and Commission Surveillance Room Specifications.**

112.1. There shall be recording and monitoring rooms in the limited gaming facility. ~~The room for the exclusive use of the Commission and West Virginia State Police personnel assigned to assist the Commission in the casino~~ shall be designated the "Commission Surveillance Room." The room for the use of the surveillance employees of the gambling operation shall be designated the "Casino Surveillance Room." The casino security office shall be separate from the casino surveillance room and be located in a different area of the building.

112.2. Each surveillance room shall:

112.2.a. Be located out of the general view of patrons and non-surveillance employees; and

112.2.b. Have access limited to surveillance room personnel and persons with a legitimate need to enter the area.

112.3. Within the suite of offices set aside by the limited gaming facility licensee for the use of Commission personnel, one of the rooms shall be equipped with surveillance monitoring equipment that will allow representatives of the Commission to view any camera scene the casino monitors without intervention or assistance of casino personnel.

#### **§179-4-113. ~~Detained or Arrested Persons.~~ [Reserved]**

~~113.1. The limited gaming facility licensee shall immediately report, to West Virginia Lottery Security or to West Virginia State Police personnel assigned to assist the Commission, the physical detention of a person suspected of criminal activity.~~

~~113.2. The limited gaming facility licensee shall provide separate temporary holding areas for detainees and arrestees and shall adopt procedures for the use of the holding areas, subject to a determination by the West Virginia State Police that the holding areas and procedures are adequate and are consistent with practices in effect at courthouse facilities within~~

~~the state.~~

#### **§179-4-114. Secured Delivery Station Specifications.**

~~114.1. The limited gaming facility licensee shall provide a secure structure designated the "secured delivery station" that shall be covertly surveilled and monitored during all hours of operation. One-on-one continuous surveillance shall be conducted when deliveries and pickups are made. The structure shall be used for all of the following purposes:~~

~~114.1.a. Armored car cash deliveries;~~

~~114.1.b. Armored car cash pickups;~~

~~114.1.c. The delivery and pickup of chips, tokens, and other valuables; and~~

~~114.1.d. The pickup of detainees.~~

~~114.2. A secured delivery station shall:~~

~~114.2.a. Be located out of the general view of patrons, non-surveillance employees, and non-security employees;~~

~~114.2.b. Have at least one garage stall large enough to accommodate an armored truck and still allow adequate space to walk around the vehicle comfortably;~~

~~114.2.c. Have an independently operated garage door that is electronically controlled from the casino surveillance room;~~

~~114.2.d. Have a secured room between the secured delivery station and the casino area. The room shall have electronically operated sliding bulletproof glass doors that are programmed so that both doors cannot be open at the same time and neither door can open unless both garage doors to the secured delivery station are closed and secured; and~~

~~114.2.e. Have color cameras and monitors which are in compliance with the specifications for surveillance equipment in this rule which surveil and monitor activities in all of the following areas:~~

~~114.2.e.1. The secured delivery station;~~

~~114.2.e.2. The secured room off the secured delivery station;~~

~~114.2.e.3. Just outside the garage door to the secured delivery station; and~~

~~114.2.e.4. Just inside the casino area.~~

~~114.3. Casino surveillance personnel shall advise security officers of deliveries so the~~

~~officers can provide foot escorts to and from secured areas within the casino. Delivery personnel who are not casino personnel shall not be allowed to walk in the secured areas of the casino without an escort.~~

#### **§179-4-115. Required Surveillance Equipment.**

115.1. The limited gaming facility licensee shall install a closed circuit television system in accordance with this rule.

115.2. The casino shall have a sufficient number of monitors in the surveillance rooms to adequately protect patrons and ensure the integrity of casino gaming. The Commission surveillance room and the casino surveillance room shall have appropriate switching capabilities to ensure all surveillance cameras are accessible to monitors in each room, except for the camera and monitor that allow the Commission or West Virginia State Police personnel assigned to the Commission, or both, to monitor employees in the casino surveillance room. The equipment in the Commission surveillance room shall be able to monitor and record, without being overridden, anything visible by monitor to employees of the limited gaming facility licensee.

115.3. A table game shall have ~~fixed~~ cameras which ~~are in compliance with the requirements for surveillance equipment in this rule and which~~ continuously monitor and record all games during all hours of casino operations.

115.4. The Commission surveillance room shall have a color television monitoring system which is in compliance with the requirements for surveillance equipment in this rule and which is capable of monitoring employees in the casino surveillance room.

115.5. The equipment used in the closed circuit television system shall be in compliance with all of the following requirements:

~~115.5.a. A black and white television camera shall:~~

~~115.5.a.1. Be solid state;~~

~~115.5.a.2. Be 2/3 or 1/2 format;~~

~~115.5.a.3. Have a minimum of 400 lines of resolution, be installed in fixed positions, and have a matrix control or pan, tilt, and zoom capabilities; and~~

~~115.5.a.4. Be secreted from the public and nonsecurity personnel view to effectively and clandestinely monitor, in detail, from various points, the coverage described in this rule.~~

115.5.b.115.5.a. A color television camera shall provide resolution for observing chips, dice, playing cards and positions on the roulette wheel.;

~~115.5.b.1. Be 2/3 or 1/2 format;~~

~~115.5.b.2. Have a minimum of 320 lines of resolution and have a matrix control or pan, tilt, and zoom capabilities; and~~

~~115.5.b.3. Be secreted from the public and non-security personnel view to effectively and clandestinely monitor, in detail, from various points, the coverage described in this rule.~~

~~115.5.e.115.5.b. A~~ The cameras that is used for observing chips, dice, tokens, playing cards and positions on the roulette wheel shall be equipped with lenses of sufficient magnification capabilities to allow the operator to clearly distinguish the value of all of the following:

~~115.5.e.1.115.5.b.1.~~ Chips;

~~115.5.e.2.115.5.b.1.~~ Dice;

~~115.5.e.3.115.5.b.1.~~ Tokens;

~~115.5.e.4.115.5.b.1.~~ Playing cards; and

~~115.5.e.5.115.5.b.1.~~ Positions on the roulette wheel.

~~115.5.d.115.5.c. A~~ Each monitor shall:

~~115.5.d.1. Meet or exceed the resolution requirements for recording cameras that have solid state circuitry;~~

~~115.5.d.2. Have~~ have a date and time generator that is synchronized to a central clock which can be displayed on any of the monitors while recording on videotape, video pictures, or other means of electronic recording; ~~and.~~

~~115.5.d.3. Have a monitor screen measuring diagonally not less than 12 inches and have all controls located on the front of the monitor screen.~~

~~115.5.e.115.5.d.~~ There shall be sufficient recorders to allow for the simultaneous recording of the coverage described in this rule, off-line playback, and duplication capabilities. ~~A recorder shall:~~

~~115.5.e.1. Be capable of producing high quality, first generation pictures that meet or exceed the resolution requirements for recording cameras;~~

~~115.5.e.2. Be capable of recording in a Commission approved format with high speed scanning and have a flickerless playback capability in real time; and~~

~~115.5.e.3. Be capable of recording what is viewed by any camera in the system; and~~

~~115.5.f. A printer that is capable of printing from surveillance related recording~~

equipment shall be provided and shall:

~~115.5.f.1. Be capable of adjustment; and~~

~~115.5.f.2. Be capable, upon command, of generating instantaneous, clear, and color, or black and white copies of images depicted on the surveillance monitor screen or recording devices.~~

~~115.5.g. A date and time generator shall:~~

~~115.5.g.1. Be based on a synchronized central or master clock;~~

~~115.5.g.2. Be capable of being recorded on tape or other Commission approved medium and be visible on any monitor when recorded; and~~

~~115.5.g.3, 115.5.e. Surveillance equipment must have a backup power supply so that the generator remains accurate despite power interruptions.~~

~~115.5.h. Generator equipment shall allow audio capabilities in the hard and soft count rooms.~~

~~115.5.i. A wiring system shall be designed to prevent tampering and shall be in compliance with both of the following requirements:~~

~~115.5.i.1. Be supplemented with a backup gas generator power source or diesel generator power source, or both, that automatically engages in case of a power failure; and~~

~~115.5.i.2. Be capable of returning full power within 7 to 10 seconds after a power failure.~~

~~115.5.j. Switchers for all surveillance cameras shall be capable of both manual and automatic sequential switching for the appropriate cameras.~~

~~115.5.k. Both of the following shall be in reserve in the event of equipment malfunctions:~~

~~115.5.k.1. A minimum of two backup cameras; and~~

~~115.5.k.2. Two recording devices; and~~

~~115.5.l. Fixed color television cameras designated for table games shall:~~

~~115.5.l.1. Be 2/3 or 1/2 format;~~

~~115.5.l.2. Have a minimum of 320 lines of resolution, be fixed, and be stationed over table games; and~~

~~115.5.1.3. Be secreted from the public's and non-security personnel's view to effectively and clandestinely monitor, in detail, the patrons, players, dealers, and gaming devices of table games.~~

~~115.6. Casino surveillance room telephones shall be connected to the casino general telephone system and have at least one direct outside line that is independent of the casino general telephone system. Casino surveillance radio communications shall be connected with the casino security department.~~

**§179-4-116. Closed Circuit Television Required Surveillance.**

116.1. The surveillance closed circuit television system shall be capable of covertly monitoring activities on the casino floor and related areas, including patron parking areas and patron passages leading to and from the casino operation and gambling operation areas, as required in this rule.

116.2. The Commission may require additional areas be monitored to ensure compliance with the Act and this rule and to ensure the safety of patrons and the integrity of gambling.

**§179-4-117. Closed Circuit Television Surveillance System Coverage.**

117.1. All of the following areas of the limited gaming facility shall be covertly monitored in accordance with this rule:

117.1.a. Live gaming devices;

117.1.b. Pits;

117.1.c. ~~Electronic gaming device~~ Video lottery terminal areas;

117.1.d. The main bank;

~~117.1.e. The hard count room;~~

~~117.1.f.~~117.1.e. The soft count room;

~~117.1.g.~~117.1.f. Occupied temporary holding facilities; and

~~117.1.h.~~117.1.g. The secured delivery station.

117.2. The surveillance system shall provide an overall view of live table games that permits clear identifying of all of the following:

117.2.a. Dealers;

117.2.b. Patrons;

- 117.2.c. Hands of all participants;
- 117.2.d. Facial views of all participants;
- 117.2.e. All pit personnel; and
- 117.2.f. Activities of all pit personnel;

117.3. The playing surface of the tables shall be viewed with sufficient clarity to determine all of the following:

- 117.3.a. All wagers;
- 117.3.b. Card values; and
- 117.3.c. Game results.

117.4. The playing surface of the tables shall be viewed with sufficient clarity to clearly observe, in detail, all of the following:

- 117.4.a. Chip trays;
- 117.4.b. Token holders;
- 117.4.c. Cash receptacles;
- 117.4.d. Tip boxes;
- 117.4.e. Dice;
- 117.4.f. Shuffle machines; ~~and~~
- 117.4.g. Card shoes; and
- 117.4.h. The Lottery-specified identifier symbol.

~~117.5. Roulette tables shall be viewed with color cameras.~~

~~117.6.~~117.5. ~~Electronic gaming device~~ Video lottery terminal surveillance systems shall be capable of providing all of the following:

- ~~117.6.a.~~117.5.a. A reasonably clear view of all gaming patrons;
- ~~117.6.b.~~117.5.b. A facial view of all gaming patrons with sufficient clarity to allow identification of the patron;

~~117.6.e.117.5.c.~~ A view of the ~~electronic gaming device~~ video lottery terminal with sufficient clarity to observe the results of the game;

~~117.6.d.117.5.d.~~ An overall view of the areas around the ~~electronic gaming device~~ video lottery terminal; and

~~117.6.e.117.5.e.~~ A view of bill validators with sufficient clarity to determine the bill value and the amount of credit obtained;

~~117.7.117.6.~~ The surveillance system shall be capable of providing a reasonably clear view of all of the following:

~~117.7.a.117.6.a.~~ Activity by players and employees, alone or in concert, that may constitute cheating or stealing;

~~117.7.b.117.6.b.~~ Failure of employees to follow proper procedures and internal controls;

~~117.7.c.117.6.c.~~ Treatment of disorderly persons;

~~117.7.d.117.6.d.~~ Treatment of persons on the exclusion list;

~~117.7.e.117.6.e.~~ Arrests and evictions;

~~117.7.f.117.6.f.~~ Treatment of ill or injured patrons;

~~117.7.g.~~ ~~The activities of detainees in the temporary holding area;~~ and

~~117.7.h.117.6.g.~~ Movement of cash, tokens, cards, chips, or dice on the casino floor. Upon notification of intended movement of any cash, tokens, cards, chips, or dice, both of the following provisions shall be complied with:

~~117.7.h.1.117.6.g.1.~~ The surveillance system personnel shall record the notification in the Activities log; and

~~117.7.h.2.117.6.g.2.~~ During the course of routine surveillance, the progress of the movement shall be monitored to ensure that all procedures and internal controls are followed.

~~117.7.i.117.6.h.~~ Areas where any of the following items are stored shall be monitored by a dedicated camera capable of continuous recording or motion activation:

~~117.7.i.1.117.6.h.1.~~ Cash;

~~117.7.i.2.117.6.h.2.~~ Tokens;

~~117.7.i.3-117.6.h.3.~~ Chips;

~~117.7.i.4-117.6.h.4.~~ Cards;

~~117.7.i.5-117.6.h.5.~~ Dice; and

~~117.7.i.6-117.6.h.6.~~ Drop buckets containing tokens or any monetary equivalent.

~~117.7.j-117.6.i.~~ Areas where any of the following items are transported or stored shall be monitored by a dedicated camera capable of continuous recording or motion activation:

~~117.7.j.1-117.6.i.1.~~ Uncounted tokens;

~~117.7.j.2-117.6.i.2.~~ Chips;

~~117.7.j.3-117.6.i.3.~~ Cash; and

~~117.7.j.4-117.6.i.4.~~ Cash equivalents.

**§179-4-118. Closed Circuit Television Surveillance System Recording Requirements.**

118.1. ~~The surveillance shall visually record all of the following any activity:~~

~~118.1.a. Observed criminal activity;~~

~~118.1.b. Arrests or evictions;~~

~~118.1.c. Observed procedural violations by employees;~~

~~118.1.d. Detention of persons and security of their property;~~

~~118.1.e. Emergency activities capable of being observed by the system;~~

~~118.1.f. Armored car and other delivery and pickups from the secured delivery station;~~  
and

~~118.1.g. Any other activity considered necessary by the Commission to ensure compliance with the Act and to ensure protection of the public and the integrity of gaming. These activities shall be set forth in an interpretive rule of the Commission.~~

118.2. ~~Surveillance~~ All soft count activities shall be both audibly and visually record recorded both of the following:

~~118.2.a. All soft count procedures; and~~

~~118.2.b. Hard count procedures.~~

~~118.3. Surveillance shall monitor and visually record all of the following:~~

~~118.3.a. Currency collection;~~

~~118.3.b. Drop bucket collection;~~

~~118.3.c. Armored car deliveries and pickups in the secured delivery station;~~

~~118.3.e. Main banks, including both of the following:~~

~~118.3.e.1. The capability to monitor and record a general overview of the Activities in each cage and vault area with sufficient clarity to identify patrons and employees; and~~

~~118.3.e.2. A dedicated camera to monitor, record, and identify, with sufficient clarity, the currency, coin, token and chip values, and the amounts of credit slips and fill slips in any area where fills and credits are transacted;~~

~~118.3.f. Security department offices, including complying with all of the following provisions:~~

~~118.3.f.1. The capability to monitor and record, both audibly and visually, all activities in any area of the security office where a person may be detained and questioned by the security department. All areas where a person may be detained and questioned shall display a notice clearly stating that the area is or may be under surveillance;~~

~~118.3.f.2. All detention and questioning of detained individuals by casino security personnel shall be recorded; and~~

~~118.3.f.3. A notice shall be posted in the security office stating that the area is under surveillance;~~

~~118.3.g. Entrances and exits of the limited gaming facility and entrances and exits of all of the following rooms in the casino including count rooms, vaults, surveillance rooms and security rooms. The entrances and exits described in this subdivision shall have dedicated monitoring and recording devices that have sufficient clarity to afford a reasonable opportunity to identify any person using the entrances and exits.~~

~~118.3.h. On-site maintenance and repair service, including complying with all of the following provisions:~~

~~118.3.h.1. Surveillance personnel shall be notified of any maintenance or repair of any gaming or money handling equipment;~~

~~118.3.h.2. Notation of the service shall be made in the Activity log;~~

~~118.3.h.3. Repair shall be periodically monitored in conjunction with routine monitoring activities to ensure that proper controls and procedures are being followed by casino personnel; and~~

~~118.3.h.4. The provisions of this subdivision are not applicable to routine operations, such as jackpot payouts, hopper fills, and hopper jams.~~

~~118.4. Surveillance shall monitor, by a dedicated camera, and continuously record any electronic gaming device or group of electronic gaming devices that have a possible jackpot payout of more than \$50,000.00.~~

#### **§179-4-119. Retention of Recorded Activities.**

119.1. A recording of routine activity shall contain a date and time reading and shall be retained for not less than 14 fourteen days for table games and for not less than thirty days for video lottery terminals.

~~119.2. A visual or audio recording of the detention or questioning of an individual or employee shall be immediately provided to the Commission. The recording shall be retained for not less than 14 days after the original recording is provided to the Commission. The recording shall contain a date and time reading and shall be marked with all of the following:~~

~~119.2.a. The date and time the recording was made;~~

~~119.2.b. The identities of the employee or employees responsible for the monitoring; and~~

~~119.2.c. The identity of the employee who removed the recording from the recorder and the time and date removed.~~

~~119.3.119.2.~~ An original recording of a violation of internal controls or criminal activity shall immediately be provided to the Commission. A copy of the recording shall be retained for not less than 14 days after the original is provided to the Commission. The recording shall contain a date and time reading and be marked with all of the following:

~~119.3.a.119.2.a.~~ The date and time the ~~tape~~ recording was made;

~~119.3.b.119.2.a.~~ The identity of the employee responsible for the monitoring; and

~~119.3.e.119.2.a.~~ The identity of the employee who removed the recording from the recorder.

#### **§179-4-120. Segregated and Secured Telephone Communication.**

120.1. The limited gaming facility licensee shall provide, in the West Virginia Lottery's

surveillance room and in the West Virginia Lottery casino office, a segregated and secured telephone communications system for use by the Commission and the West Virginia State Police, ~~personnel assigned to assist the Commission. The system in each room shall include a direct emergency line for all of the following:~~

~~120.1.a. The West Virginia State Police regional dispatch center.~~

~~120.1.b. The town or city fire department or volunteer fire department closest to the limited gaming facility; and~~

~~120.1.c. The town or city police department or county sheriff detachment closest to the limited gaming facility.~~

**§179-4-121. Daily Surveillance Logs; Visitors; Logs.**

121.1. The limited gaming facility licensee shall maintain a daily surveillance log and a log of visitors to the surveillance room. A daily surveillance log shall:

121.1.a. Be continuously maintained by surveillance personnel;

121.1.b. Be changed with each shift change of personnel;

121.1.c. Be chronological;

121.1.d. Contain, at a minimum, all of the following information:

121.1.d.1. The date and time of each entry;

121.1.d.2. The identity of the employee making the entry.;

121.1.d.3. A summary of the Activity recorded;

121.1.d.4. A detailed statement of whether the Activity was monitored;

and

121.1.d.5. A detailed statement concerning the disposition of the tape, if recorded.

121.1.e. Unless otherwise directed by the Commission, include entries for all of the following information:

121.1.e.1. The identity of the surveillance room personnel each time they enter or depart the surveillance room ~~and the reason for the entry or departure;~~

121.1.e.2. The notification of any maintenance or repair of any gaming device or money handling equipment;

121.1.e.3. Live table drop box exchanges;

121.1.e.4. ~~Electronic gaming device~~ Video lottery terminal drop bucket exchanges;

121.1.e.5. Transfers of cash, chips, tokens, cards, or dice;

~~121.1.e.6. Any detention or questioning of patrons or employees by the security department, including the identity of the patrons or employees and the security department personnel involved;~~

~~121.1.e.7.~~121.1.e.6. The beginning, end, and any interruptions of the soft count;

~~121.1.e.8.~~121.1.e.7. The beginning, end, and any interruptions of the hard count;

~~121.1.e.9.~~121.1.e.8. An observed violation of this rule or of the licensee's internal control procedures;

~~121.1.e.10.~~121.1.e.9. An observed criminal activity;

~~121.1.e.11.~~121.1.e.10. A pertinent telephone call;

~~121.1.e.12.~~121.1.e.11. Pertinent radio transmission;

~~121.1.e.13.~~121.1.e.12. Malfunction or repair of surveillance equipment;

~~121.1.e.14.~~121.1.e.13. Any emergency activity;

~~121.1.e.15.~~121.1.e.14. Surveillance conducted on anyone or any activity that appears unusual, irregular, or illegal or appears to violate the Act or this rule;

~~121.1.e.16.~~121.1.e.15. Surveillance conducted at the request of the limited gaming facility licensee, an employee of the limited gaming facility licensee, a Commission employee, or the West Virginia State Police; and

~~121.1.e.17.~~121.1.e.16. Other notations considered necessary by surveillance room personnel or the Commission to ensure compliance with the Act and this rule.

121.1.f. Be retained for not less than 90 days.

121.2. A visitors log shall:

121.2.a. Include the signature of anyone other than surveillance room personnel

on duty, who accesses the surveillance room;

121.2.b. Identify all visitors;

121.2.c. State the department or agency the visitor represents;

121.2.d. State the reason for access to the room;

121.2.e. Provide the date and time of arrival and departure from the room; and

121.2.f. Be retained not less than 90 days.

121.3. All surveillance room tapes, logs, and reports shall:

121.3.a. Be retained in a manner to allow them to be easily retrieved by any of the following:

121.3.a.1. ~~Time~~;

~~121.3.a.2.~~ Date;

~~121.3.a.3.~~121.3.a.4. Location of activity; or

~~121.3.a.4.~~121.3.a.5. Type of activity; and

121.3.b. Be furnished to the Commission or personnel of the West Virginia State Police assigned to the Commission immediately upon demand. The limited gaming facility licensee may retain a copy of any tape, log, or report at the licensee's own expense.

**§179-4-122. ~~West Virginia Lottery; Commission's~~ Commission's Casino Premises Office.**

122.1. The limited gaming facility licensee shall provide free of any charge a secure and segregated ~~room~~ suite at the casino premises for the exclusive use of the Commission. The room shall be in addition to the Commission surveillance room and shall be a size approved by the Commission based on the casino's size and Commission staffing needs within the casino. The Commission casino premises office shall have a secure telephone line that has a different number than the telephone line of the limited gaming facility. The secure telephone line shall provide not less than two extensions and direct emergency lines as described in this rule. The limited gaming facility licensee shall provide parking in proximity to the casino for use of the Commission on a basis consistent with parking made available to supervisory personnel of the limited gaming facility. The actual number of spaces shall be determined by the Commission.

122.2. The live feeds from all surveillance cameras in the limited gaming facility shall be sent to the Commission surveillance office. The Commissions surveillance office shall be able to use the dual feed without intervention of the limited gaming facility surveillance office.

**§179-4-123. Surveillance Equipment; Maintenance and Malfunctions.**

123.1. The limited gaming facility licensee shall inform ~~the West Virginia Lottery's security division~~ an on-site Commission representative if surveillance equipment is expected to be out of service for more than 30 minutes due to maintenance or malfunction.

123.2. Unless otherwise directed by the Commission, the limited gaming facility licensee shall replace equipment expected to be out of service for more than 30 minutes with alternate camera coverage or, at the discretion of the Commission, shall cover the equipment with live surveillance.

123.3. The Commission will periodically inspect the surveillance room to ensure all of the following:

123.3.a. All of the equipment is working properly;

123.3.b. Camera views are not blocked or distorted by improper lighting or obstructions; and

123.3.c. All required surveillance capabilities are in place.

**§179-4-124. Emergency Procedures.**

124.1. Before commencing casino gambling operations, the licensee or applicant shall submit, to the Commission, the West Virginia State Police and the fire department in closest proximity to the limited gaming facility, an emergency action plan for the response to, and management of, fire and medical emergencies, terrorist activities and natural disasters in all areas of the casino. The plan shall include procedures for notification of the West Virginia Lottery security division, the West Virginia State Police, and/or fire or emergency medical personnel, and procedures for expedited and unimpeded access of the personnel into all areas of the limited gaming facility in the event of a fire, medical, or other emergency. The plan shall also include an inspection schedule allowing the West Virginia lottery security division, the West Virginia State Police and local fire department personnel to inspect all areas of the casino for compliance with applicable fire and emergency laws, codes, and ordinances.

124.2. In an emergency, the safety of patrons and personnel is the first priority.

124.3. In an emergency if sufficient time exists, the limited gaming facility licensee shall:

124.3.a. Secure all records;

124.3.b. Replace all recordings;

124.3.c. Set recorders for slow speeds;

124.3.d. Activate dedicated cameras and recording devices; and

124.3.e. Set all other available cameras and recorders.

124.4. A licensee shall place cameras and recording devices in areas where unusual occurrences have been observed or where reason exists to believe unusual occurrences will occur.

**§179-4-125. Incident Management Training Required.**

125.1. The limited gaming facility licensee shall require licensed casino surveillance and security personnel to undergo annual incident ~~management~~ training ~~administered by the West Virginia Lottery security division and the West Virginia State Police in cooperation with the local fire department.~~

125.2. The training shall be geared to prepare casino surveillance and security personnel in the proper procedures to follow in the event of a fire, robbery attempt, bomb threat, terrorist activity, medical emergency, or other major occurrence. ~~Training shall be geared to instruct casino personnel in all of the following:~~

~~125.2.a. The procedures to follow;~~

~~125.2.b. Notifications to make, for example, police, fire, ambulance, hospitals;~~

~~125.2.c. Securing the facility;~~

~~125.2.d. Communications with West Virginia State Police and county and municipal police dispatch centers and the fire departments;~~

~~125.2.e. Evacuation; and~~

~~125.2.f. Fire and medical emergencies.~~

125.3. A limited gaming facility licensee's incident training may be observed or joined by the West Virginia Lottery, the West Virginia State Police, and/or the local fire department.

**§179-4-126. Surveillance Plan.**

126.1. The limited gaming facility licensee shall submit a surveillance plan to the Commission not less than ~~90~~ sixty days before the commencement of gambling operations. The plan shall include both of the following:

126.1.a. A floor plan that shows the placement of all surveillance equipment; and

126.1.b. A detailed description of the surveillance system and its equipment.

126.2. The limited gaming facility licensee shall resubmit the surveillance plan with alterations required by the Director not less than 30 days before the institution of the alterations. Alterations recommended by Commission personnel may be implemented as agreed to by the licensee and the Commission.

126.3. The limited gaming facility licensee shall submit all of the following alteration information:

126.3.a. Details of the change, including the floor plan;

126.3.b. The reason for the change; and

126.3.c. Expected results of the change.

126.4. The limited gaming facility licensee shall submit the surveillance plan to the Commission for approval. The limited gaming facility licensee can commence operations if a surveillance plan is approved. The Commission shall advise the limited gaming facility licensee of its decision in writing. The limited gaming facility licensee shall not commence operations or institute alterations if the surveillance plan or alterations are disapproved.

#### **§179-4-127. Surveillance of Employees.**

~~127.1. An employee whose duties will be monitored in accordance with this rule shall be informed before commencing his or her duties that his or her surveillance is a requirement of employment.~~

~~127.2. An employee whose duties will be monitored in accordance with this rule shall sign a written statement before commencing his or her employment indicating that the employee understands that he or she will be under surveillance.~~

~~127.3. The limited gaming facility licensee shall maintain each signed statement for one year after employment ends.~~

~~127.4. An employee shall sign an updated statement before commencing a new position or before being rehired into a previous position if the new position requires employee surveillance.~~

~~127.5. An area under surveillance and accessible only to employees shall display a notice clearly stating that the area is under surveillance.~~

#### **§179-4-128. Communications Equipment.**

128.1. The limited gaming facility licensee shall assure that portable telephone or 2-way radio communication equipment, or both, may be operated from all areas of the limited gaming facility including, but not limited to, secure or underground areas.

§179-4-129 and 130. [Reserved].

## **PART 7. SEIZURE, FORFEITURE AND ~~DISCIPLINARY~~ DISCIPLINARY HEARINGS**

### **§179-4-131. Commission License as Revocable Privilege; Reasons for Investigation of, or Disciplinary Action Against, Licensee; Hearing Procedure.**

131.1. A West Virginia Lottery Commission licensee has a continuing duty to maintain suitability for licensure. A Commission license does not create a property right, but is a revocable privilege contingent upon continuing suitability for licensure.

131.2. The Commission may initiate an investigation or a disciplinary action, or both, against a licensee if the Commission has reason to believe that at least one of the following provisions applies:

131.2.a. The licensee is not maintaining suitability for licensure;

131.2.b. The licensee is not complying with licensure conditions; or

131.2.c. The licensee is not complying with the Act or this rule.

131.3. The Commission shall appoint a Commission member or an administrative hearing officer to conduct a hearing after a complaint has been filed and shall generally follow the West Virginia Lottery's Administrative Appeal Procedures rule, 179 CSR 2. The hearing officer may provide the Commission with proposed findings of facts and conclusions of law. The Commission is under no obligation to adopt the hearing officer's recommendations, however it may do so, either in part or in whole.

131.4. The person demanding a hearing shall give security for the cost of the hearing in the amount of three hundred dollars in the form of a certified check, a cashier's check or a money order, which shall accompany the petition demanding a hearing. The fee of three hundred dollars may be waived by the Commission for good cause shown. By a uniform order of the Commission, the amount of the security may in future years be changed to another amount to reflect the actual costs of holding appeal hearings.

### **§179-4-132. Actions Available to Hearing Officer and Commission.**

132.1. The Commission ~~or its hearing officer~~ may impose any of the following remedies regarding seizure and destruction of one or more video lottery terminals ~~or electronic gaming devices~~ under W. Va. Code §29-22A-5(f):

132.1.a. Seize and destroy any video lottery terminals that are not in compliance with section six [W. Va. Code §29-22A-6] of the Racetrack Video Lottery Act; or

132.1.b. Impose any appropriate action set forth in subdivision (2) of this subsection on a person who possesses any gaming device that is not in compliance with the Act

or this rule.

132.2. The Commission ~~or its hearing officer~~ may impose any of the following remedies in a disciplinary action against a licensee:

132.2.a. Suspend the license of the limited gaming facility;

132.2.b. Suspend the license of the supplier of the video lottery terminal; or

132.2.c. Impose a civil penalty of up to \$10,000.00 against the limited gaming facility licensee and/or the licensed supplier of the non-complying video lottery terminal.

**§179-4-133. Special Proceedings.**

133.1. The Commission may suspend the license issued to the limited gaming facility without notice or hearing if the Commission determines that the safety or health of patrons or employees would be threatened by the continued operation of the casino or that the Action is necessary for the immediate preservation of the integrity of casino gaming, the West Virginia Lottery, public peace, health, safety, morals, good order, or general welfare.

133.2. If the Commission determines that an emergency exists, then the Commission may suspend the limited gaming facility's license, a supplier's license, or an occupational license after a hearing conducted by a hearing officer. The resulting order shall include a brief statement of the facts and the law that justifies the Commission's decision to take the specific action.

133.3. The suspension of the limited gaming facility's license may continue until the Commission determines that the cause for the suspension of the license has been abated.

133.4. The Commission may revoke the limited gaming facility's license if the Commission determines that the licensee has not made satisfactory progress toward abating the hazard to the safety or health of patrons or employees within a reasonable period of time.

**§179-4-134 and 135. [Reserved].**

**PART 8. ACCOUNTING RECORDS AND PROCEDURES**

**§179-4-136. Ownership Records.**

~~136.1.~~The limited gaming facility licensee shall keep and provide to the Commission upon request, all of the following records:

~~136.1.a.~~136.1. If the limited gaming facility or any controlling person of the licensee, or an applicant for the limited gaming facility license, is a publicly traded corporation, a list of those executive officers of the publicly ~~traded~~ traded corporation whose ongoing and regular responsibilities relate or are expected to relate directly to the operation or oversight of the gaming facility.

~~136.1.b.~~136.2. If the limited gaming facility licensee is a corporation, but is not a publicly traded corporation, then all of the following records:

~~136.1.b.1.~~136.2.a. A certified copy of the articles of incorporation and any amendments;

~~136.1.b.2.~~136.2.b. A certified copy of the bylaws and any amendments;

~~136.1.b.3.~~136.2.c. A certificate of good standing from the state of its incorporation;

~~136.1.b.4.~~136.2.d. If the corporation is operating as a foreign corporation in West Virginia, a certificate of authority from the West Virginia ~~corporations and securities bureau~~ Secretary of State's Office authorizing it to do business in West Virginia;

~~136.1.b.5.~~136.2.e. A list of all current and former officers and directors for a period of two years before West Virginia licensure;

~~136.1.b.6.~~136.2.f. A certified copy of minutes of all meetings of the stockholders and directors for a period of two years before West Virginia licensure;

~~136.1.b.7.~~136.2.g. A current list of all current stockholders, including the names of beneficial owners of shares held in street or other names;

~~136.1.b.8.~~136.2.h. The name of a company and a current list of all stockholders in the company, including the names of beneficial owners of shares held in street or other names, in which the corporation has a direct, indirect, or attributed interest;

~~136.1.b.9.~~136.2.i. A copy of the stock certificate ledger or its electronic equivalent;

~~136.1.b.10.~~136.2.j. A complete record of all transfers of stock to the extent available to the licensee or applicant;

~~136.1.b.11.~~ 36.2.k. A schedule of amounts paid to the corporation for the issuance of stock and other capital contributions and the dates the amounts were paid;

~~136.1.b.12.~~136.2.l. A schedule of all dividends distributed by the corporation;  
and

~~136.1.b.13.~~136.2.m. A schedule of all direct or indirect salaries, wages, and other remuneration, including prerequisites, paid during the calendar or fiscal year by the corporation to all officers, directors, and stockholders that have an ownership interest, at any time during the calendar or fiscal year, that is ~~more than 5%~~ five percent or more of the outstanding capital stock of any class of stock;

~~136.1.e.136.3.~~ If the limited gaming facility licensee is a limited liability company, then all of the following records:

~~136.1.e.1.136.3.a.~~ A certified copy of the articles of organization;

~~136.1.e.2.136.3.b.~~ A certified copy of the operating agreement;

~~136.1.e.3.136.3.c.~~ A list of all current and former managers, including names and addresses;

~~136.1.e.4.136.3.d.~~ A list of the members, including all of the following information:

~~136.1.e.4.A.136.3.d.1.~~ Names;

~~136.1.e.4.B.136.3.d.2.~~ Addresses;

~~136.1.e.4.C.136.3.d.3.~~ The percentage of interest in net assets, profits, and distributions of cash held or attributable to each;

~~136.1.e.4.D.136.3.d.4.~~ The amount and date of each capital contribution of each member;

~~136.1.e.4.E.136.3.d.5.~~ The date the interest was acquired; and

~~136.1.e.4.F.136.3.d.6.~~ The method of determining a member's interest;

~~136.1.e.5.136.3.e.~~ A schedule of all withdrawals of company funds or assets by members;

~~136.1.e.6.136.3.f.~~ A schedule of direct or indirect salaries, wages, and other remuneration, including prerequisites, paid to each member during the calendar or fiscal year;

~~136.1.e.7.136.3.g.~~ A copy of the membership ledger or its electronic equivalent;

~~136.1.e.8.136.3.h.~~ A complete record of all transfers of membership interests; and

~~136.1.e.9.136.3.i.~~ A schedule of amounts paid to the company for the issuance of membership interests and other capital contributions and the dates the amounts were paid;

~~136.1.d.136.4.~~ If the limited gaming facility licensee is a partnership, then all of the following records:

~~136.1.d.1.136.4.a.~~ A certified copy of the partnership agreement;

~~136.1.d.2.~~136.4.b. A certificate of limited partnership of its domicile;

~~136.1.d.3.~~136.4.c. A list of the partners, including all of the following information:

~~136.1.d.3.A.~~136.4.c.1. Names;

~~136.1.d.3.B.~~136.4.c.2. Addresses;

~~136.1.d.3.C.~~136.4.c.3. The percentage of interest in net assets, profits, and losses held by each partner;

~~136.1.d.3.D.~~136.4.c.4. The amount and date of each capital contribution of each partner; and

~~136.1.d.3.E.~~136.4.c.5. The date the interest was acquired.

~~136.1.d.3.F.~~136.4.c.6. The description of the form of the person's partnership interest, for example, limited partner.

~~136.1.d.4.~~136.4.d. A schedule of all withdrawals of partnership funds or assets.;  
and

~~136.1.e.5.~~136.4.e. A schedule of direct or indirect salaries, wages, and other remuneration, including prerequisites, paid to each partner during the calendar or fiscal year; and

~~136.1.e.~~136.5. If the limited gaming facility licensee is a sole proprietorship, then all of the following records:

~~136.1.e.1.~~136.5.a. A schedule showing the name and address of the proprietor and the amount and date of his or her original investment;

~~136.1.e.2.~~136.5.b. A schedule of the dates and amounts of subsequent additions to the original investment and any withdrawals; and

~~136.1.e.3.~~136.5.c. A schedule of direct or indirect salaries, wages, and other remuneration, including prerequisites, paid to the proprietor during the calendar or fiscal year.

#### **§179-4-137. Accounting Records.**

137.1. The limited gaming facility licensee shall maintain complete, accurate, legible, and permanent records of all transactions pertaining to its revenues and expenses, assets, liabilities, and equity in conformance with generally accepted accounting principles. The Commission may direct the limited gaming facility licensee to alter the manner in which the records are maintained if the licensee's records are not in accordance with generally accepted accounting principles or if the records are not in sufficient detail.

137.2. The accounting records shall be maintained using a double entry system of accounting with transactions recorded on the accrual basis and supported by detailed subsidiary records.

137.3. The detailed subsidiary records shall include, at a minimum, all of the following:

137.3.a. Detailed general ledger accounts identifying all revenue, expenses, assets, liabilities, and equity for the limited gaming facility licensee;

137.3.b. A record of all investments, advances, loans, and accounts receivable balances due the establishment;

137.3.c. A record of all loans and other accounts payable by the limited gaming facility licensee;

137.3.d. A record of all accounts receivable written off as uncollectible by the limited gaming facility licensee;

137.3.e. Journal entries prepared by the limited gaming facility licensee;

137.3.f. Tax work papers used in preparation of any state or federal tax return;

137.3.g. Records that identify table drop, table win, and percentage of table win to table drop for each live game and records accumulated for each type of live game by shift or by another accounting period approved by the Director;

~~137.3.h. Records that identify all of the following on a per day basis or other accounting period approved by the Commission:~~

~~137.3.h.1. The number of coins inserted by players or the coin equivalent if a bill acceptor is being used or tokens or vouchers are used;~~

~~137.3.h.2. The number of credits wagered;~~

~~137.3.h.3. The number of credits paid out by printed tickets;~~

~~137.3.h.4. The number of coins or tokens won;~~

~~137.3.h.5. The total number of credits, coins and tokens won;~~

~~137.3.h.6. The number of times the logic door was accessed; and~~

~~137.3.h.7. The number of times the cash door was accessed; and~~

~~137.3.h.8. The calculated payout percentage of each video lottery terminal game on the~~

~~basis of credits won divided by credits played;~~

~~137.3.i.~~137.3.h. Records supporting the accumulation of the costs for complimentary services and items. A complimentary service or item provided to patrons in the normal course of a casino business shall be recorded at an amount based upon the full retail price normally charged for the service or item;

~~137.3.j.~~137.3.i. Records that identify the purchase, receipt, and destruction of gaming chips and tokens from all sources, including receipts from bill validators;

~~137.3.k.~~137.3.j. Records required to fully comply with all the federal financial record-keeping requirements enumerated in 31 Code of Federal Regulations, part 103;

~~137.3.l.~~137.3.k. Records required by the limited gaming facility licensee's internal control system;

~~137.3.m.~~137.3.l. Work papers supporting the daily reconciliation of cash accountability; and

~~137.3.n.~~137.3.m. Other records that the Commission requires to be maintained.

137.4. If the limited gaming facility licensee fails to maintain the records used by it to calculate the gross revenues from the operation of limited gaming facility table games, then the Commission may compute and determine the amount upon the basis of an audit conducted by the Commission using available information.

#### **§179-4-138. Standard Financial and Statistical Records.**

138.1. The limited gaming facility licensee, unless specifically exempted by the Commission, shall file monthly, quarterly, and annual reports of financial and statistical data in a format prescribed by the Commission. Reports prepared on Microsoft Word<sup>®</sup> and Microsoft Excel<sup>®</sup> may be emailed to [casinoreports@wvlottery.com](mailto:casinoreports@wvlottery.com) to comply with the reporting requirements of this rule. As technology changes and improves, the Commission may by interpretive rule specify another means of reporting.

138.2. The Commission shall periodically prescribe a set of standard reporting forms and instructions to be used in filing monthly, quarterly, and annual reports.

138.3. The Commission shall ~~prescribe a review and modify or approve each limited gaming facility's~~ uniform chart of accounts, including account classifications, in order to ensure consistency, comparability, and appropriate disclosure of financial information. The prescribed chart of accounts is the minimum level of detail to be maintained for each accounting classification by the limited gaming facility licensee.

138.4. Annual reports shall be based on the licensee's fiscal year. Quarterly reports shall be based on the licensee's fiscal quarters.

138.5. Monthly reports shall be based on calendar months unless another accounting period is approved by the Commission. Quarterly and monthly reports shall contain a cumulative year-to-date column in this rule to facilitate analysis.

138.6. The reports required to be filed in this rule shall be sworn to and signed by the following entities:

138.6.a. If the reports are from a corporation, then the chief executive officer and one of the following individuals:

138.6.a.1. The chief Financial Officer;

138.6.a.2. The treasurer; or

138.6.a.3. The comptroller.

138.6.b. If the reports are from a limited liability company, then by a manager;

138.6.c. If the reports are from a partnership, then by a general partner and financial director;

138.6.d. If the reports are from a sole proprietorship, then by the proprietor; or

138.6.e. If the reports are from any other form of business association, then by the chief executive officer.

138.7. A report shall be addressed to the Commission and postmarked not later than the required filing date. The required filing dates are as follows:

138.7.a. A monthly report is due on the thirteenth calendar day of the following month;

138.7.b. A quarterly report is due on the fifteenth calendar day of the second month following the end of the quarter; and

138.7.c. An annual report is due on the fifteenth calendar day of the third month following the end of the year.

138.8. If there is a termination or suspension of the limited gaming facility license, a voluntary or involuntary change in the company, or a material change in ownership, then the limited gaming facility licensee shall file an interim quarterly report as of the date the event occurs, unless the event has already been disclosed in a regular quarterly report or unless exempted by the Commission. The filing date shall be 30 calendar days after the date the event occurs.

138.9. An adjustment that results from the quarterly and annual audits shall be recorded in the accounting records. If an adjustment was not reflected in the limited gaming facility licensee's quarterly or annual reports and if the West Virginia Lottery concludes that the adjustment is significant, then it may require a revised report from the limited gaming facility licensee. The revised filing is due within 30 calendar days after written notification to the limited gaming facility licensee.

~~138.10. A delay in mailing, mail pickups, and postmarking is the responsibility of the limited gaming facility licensee.~~

#### **§179-4-139. Special Audits and Licensee Annual Compliance Reports.**

139.1. To assure the integrity of gaming and compliance with the Act and this rule, the Commission may require a special audit of the limited gaming facility licensee to be conducted by West Virginia Lottery personnel or an independent certified public accountant who is, or whose firm is, licensed in West Virginia, or by a nationally recognized accounting firm. The Commission shall establish the scope, procedures and reporting requirements of a special audit.

139.2. The limited gaming facility licensee shall prepare and submit annual compliance reports in a manner and form prescribed by the Commission. The annual compliance report shall address all of the following areas:

139.2.a. Compliance with procedures to ascertain that gross receipts are determined and state taxes paid, in conformity with the Act and this rule;

139.2.b. Compliance with Commission-approved internal control procedures, accounting procedures, credit procedures, dispute procedures, and Commission-imposed security and safety requirements;

139.2.c. A material deviation from the limited gaming facility licensee's approved internal control procedures, accounting procedures, credit and dispute procedures, and Commission-imposed security and safety requirements;

139.2.d. Corrective action taken by the licensee to resolve deficiencies observed in subdivisions (a) to (c) of this subsection; and

139.2.e. Other matters required by the Commission to measure the licensee's compliance with the Act and this rule.

139.3. The limited gaming facility licensee who is a public reporting company under the Securities and Exchange Act of ~~1933 or 1934, 15 U.S.C. § 77 and 15 U.S.C. § 78,~~ shall submit a copy of all reports required by the Securities and Exchange Commission to the Director in a format prescribed by the Commission. The reports shall be due on the same filing dates as required by the Securities and Exchange Commission.

139.4. The limited gaming facility licensee shall bear the expense of preparing an audit

which is required by this rule and which is performed by an independent certified public accountant. Qualified personnel of the limited gaming facility licensee shall prepare compliance reports and the limited gaming facility licensee shall bear the expense of preparing the compliance reports.

139.5. The reporting year-end of the holder of the limited gaming facility license shall be the licensee's fiscal year.

**§179-4-140. Accounting Controls Within the Cashier's Cage.**

140.1. The assets for which a cashier is responsible shall be maintained on an imprest basis. At the end of each shift, the cashiers assigned to the outgoing shift shall record, on a cashier's count sheet, the face value of each cashier's cage inventory item counted and the total of the opening and closing cashier's cage inventories and shall reconcile the total closing inventory to the total opening inventory. The cashiers shall sign the completed cashier's count sheet attesting to the accuracy of the information contained on the cashier's count sheet.

140.2. At the conclusion of each day, at a minimum, a copy of the cashier's count sheet and related documentation shall be forwarded to the accounting department.

140.3. All accounting controls within the cashier's cage shall conform with the approved internal control system.

**§179-4-141. Procedures for Exchange of Checks Submitted by Gaming Patrons and Granting Credit.**

141.1. Except as otherwise provided in this rule, the limited gaming facility licensee shall not make a loan, or otherwise provide credit to an individual to enable an individual to take part in gambling. The failure to deposit a negotiable instrument for collection by the next banking day after presentment by the patron ~~has checked out of the historic resort hotel~~ is considered an extension of credit.

141.2. The limited gaming facility licensee may extend credit to a patron only in the manner provided in its internal control system approved by the Commission.

141.3. The internal control system shall ensure both of the following:

141.3.a. That each credit transaction is promptly and accurately recorded in appropriate credit records; and

141.3.b. That credit may be extended only in a commercially reasonable manner considering the assets, liabilities, prior payment history, and income of the patron to the extent available.

141.4. The limited gaming facility licensee shall not extend credit beyond the approved credit line.

141.5. The limited gaming facility licensee shall provide, to the Director, a monthly report detailing credit issued, an aging of outstanding credit amounts, ~~and~~ collection activities taken with respect to aging accounts, ~~and~~ accounts written off as uncollectible, and settlement of disputed items.

141.6. The value of chips or tokens issued to a patron upon the extension of credit, the receipt of a check or other instrument, the adding of the amount to the patron's master hotel bill or through a complimentary distribution program shall be included in the computation of gross receipts.

#### **§179-4-142. Handling Cash at Gaming Tables.**

142.1. A gaming employee who receives any currency or cash equivalents from a patron in the gaming area shall promptly place the currency or cash equivalent in the drop box.

142.2. A cash wager shall not be allowed to be placed at any gaming table. The cash shall be converted to chips before a wager is accepted.

#### **§179-4-143. Tips or Gratuities.**

143.1. A gaming employee shall not accept currency as a tip or gratuity from any patron. This subsection does not apply to waiters, waitresses, bartenders, or other food or beverage servers in the casino.

143.2. A ~~gambling operation key person, box person, floor person, or other limited gaming facility~~ employee who ~~serves in a supervisory position~~ holds a level one occupational license shall not solicit or accept a tip or gratuity from a player or patron of the limited gaming facility operation. A gambling operation key person or employee shall not solicit a tip or gratuity. The limited gaming facility licensee shall not permit any practices prohibited by this rule.

143.3. All of the following provisions apply to tips and gratuities given to a dealer:

143.3.a. A dealer shall immediately deposit tips and gratuities in a ~~transparent~~ locked box reserved for that purpose. If non-value chips are received at a roulette table, then a dealer shall not remove the marker button indicating the specific value of the chips from the slot or receptacle attached to the outer rim of the roulette wheel until after a dealer, in the presence of a supervisor, has converted the non-value chips into value chips. The value chips shall be immediately deposited in a ~~transparent~~ locked box reserved for deposit and storage of tips and gratuities to the dealer; and

143.3.b. Tips and gratuities shall be accounted for by a recorded count conducted by not less than two employees designated by the licensee; and

143.3.c. Tips may be pooled among employees including level one licensees at

the limited gaming facility licensee's discretion.

**§179-4-144. Deposits of Wagering Tax; Weekly Tax Return.**

144.1. The limited gaming facility licensee shall maintain an a separate depository account for receipt and disbursement of adjusted gross receipts payment of the wagering tax at a designated financial institution that is capable of handling electronic fund transfers. The limited gaming facility licensee shall provide to the Commission weekly and other periodic reconciliations of funds deposited into this account and disbursements made from this account including the weekly transfer from the limited gaming facility licensee to the commission.

144.2. Each Wednesday, the limited gaming facility licensee shall, with the agreement of the Commission, select a 24-hour cycle that shall be defined as the business day for the purpose of establishing the shall, by electronic funds transfer, pay the privilege tax schedule and amount contained in the corresponding tax liability due dates return emailed to the Commission as required by subsection three of this section.

144.3. Each Wednesday, the limited gaming facility licensee shall submit electronically to the Commission a privilege tax return for the adjusted gross receipts from authorized games of chance and video lottery covering the previous calendar (Sunday through Saturday) week. The limited gaming facility shall complete the Commission's prescribed electronic format and shall email the return to casinotaxreturn@wvlottery.com. As technology changes and improves, the Commission may by interpretive rule specify another means of reporting.

**§179-4-145. Human Resource Benefit Fund.**

145.1. Pursuant to West Virginia Code §25-25-22a, the historic resort hotel shall be reimbursed by the Commission for each dollar it expends for sickness and accident benefits, medical coverage, and pension coverage for its employees, so long as the amount requested to be reimbursed does not exceed the amount in the Human Resource Benefit Fund. The historic resort hotel is entitled to reimbursement from the Human Resource Benefit Fund regardless of whether it is the operator of the limited gaming facility located on its premises.

145.2. As a condition of continuing eligibility for reimbursement of certain fringe benefits from the Human Resources Benefit Fund, the historic resort hotel must follow the requirements set forth in the Act and this rule, as well as comply with related requests of the Commission.

145.3. Prior to reimbursement from the Human Resource Benefit Fund, the historic resort hotel must submit a request to the Commission. This request must be in a format prescribed by the Commission. The request must be submitted to the Commission electronically. The request made to the Commission must include:

145.3.a. The amount of requested reimbursement;

145.3.b. The fringe benefit for which the historic resort hotel requests

reimbursement:

145.3.c. The date of payment on the fringe benefit; and

145.3.d. Any other information that the Commission considers necessary for its determination of whether or not to approve reimbursement.

145.4. Semiannually, the Commission shall audit the source records of the historic resort hotel to ensure that proper amounts have been requested for reimbursement by the Commission.

145.4.a. Semiannually, following the completion of the Commission's audit of employee benefit records of the historic resort hotel, the Human Resources Benefit Fund Advisory Board shall meet and review the audit results and report the results to the Commission; and

145.4.b. The Commission shall consider recommendations made by the Human Resource Benefit Fund Advisory Board in determining what information should be included in the historic resort hotel's request for reimbursement, as well as in determining other matters related to the operation of the Human Resource Benefit Fund.

145.5. The historic resort hotel must maintain records of requests made to the Commission for a period of eighteen months after the request is made, and must provide the Commission with such records upon the Commission's request.

~~§179-4-145 through 150.~~ §179-4-146 through 150. [Reserved]

## **PART 9. CREDIT**

### **§179-4-151. Purpose of Credit Extension Procedures; Establishment of Procedures.**

151.1. Procedures for the extension of credit by the limited gaming facility licensee to a patron shall not include the use by a patron of a major credit card to pay for chips, tokens, coins or vouchers, or rendering to a patron a total hotel bill that includes gaming charges of not more than \$1,000. Rather, the procedures regulate the issuance of credit directly by the limited gaming facility to a gaming patron. The limited gaming facility licensee shall submit procedures for extending credit for the following reasons:

151.1.a. To ensure that markers issued by the limited gaming facility licensee are issued only in accordance with the specific or general authorization of this rule;

151.1.b. To ensure that the functions, duties, and responsibilities of the licensee's employees involved in the extension of credit are appropriately segregated and performed in accordance with sound practices by competent, qualified personnel;

151.1.c. To ensure that a casino employee is not in a position to perpetuate and conceal errors or irregularities in the normal course of his or her duties; and

151.1d. To ensure that procedures are conducted with integrity and in accordance with the Act and this rule.

151.2. The limited gaming facility licensee is responsible for establishing policies and procedures to extend credit to patrons. The policies and procedures shall provide that each credit transaction is promptly and accurately recorded.

**§179-4-152. Submission of Written Extension of Credit Procedures to the West Virginia Lottery.**

152.1. The limited gaming facility licensee shall submit procedures for extending credit to the West Virginia Lottery.

152.2. Procedures for extending credit shall be in compliance with this rule.

152.3. Both of the following provisions apply to the submission of extension of credit procedures:

152.3.a. The limited gaming facility licensee shall submit procedures for extending credit to the Commission not less than 30 days before the commencement of gambling operations; and

152.3.b. Procedures for extending credit may not be used by the limited gaming facility licensee unless the procedures for extending credit have been submitted, in writing, and approved by the Commission.

152.4. The Commission may disapprove any portion of the policies or procedures concerning the extension of credit. If the Commission disapproves a policy or procedures concerning the extension of credit, then the Director shall notify the limited gaming facility licensee, in writing, of the disapproval.

152.5. Access to the credit information, outstanding credit instruments, and credit instruments that have been written off is restricted to occupational licensees who require access and who are authorized by management to have access.

**§179-4-153. Amendments to Procedures for Extending Credit.**

153.1. Both of the following provisions apply to an amendment to procedures for extending credit:

153.1.a. Unless otherwise authorized by the Commission, an amendment to a portion of the procedures for extending credit shall be submitted to the Commission not less than 45 days before utilizing the procedures for extending credit; and

153.1.b. The limited gaming facility licensee shall not utilize an amendment to

procedures for extending credit unless the amendment to the procedures for extending credit has been submitted, in writing, to the West Virginia Lottery.

153.2. The Commission may approve, approve with modification or disapprove any portion of an amendment to the policies or procedures concerning the extension of credit. If the Commission disapproves an amendment, then the Commission shall notify the limited gaming facility licensee, in writing, of the disapproval. The limited gaming facility licensee may not utilize any amendment that has been disapproved.

**§179-4-154. ~~Application of~~ Procedures for Extending Credit.**

154.1. Procedures for establishing credit shall, at a minimum, include the following:

154.1.a. A credit file shall be completed and maintained for each patron to whom credit is extended. This file shall include, at a minimum, all of the following:

154.1.a.1. A credit application, including, but not limited to, all of the following information:

154.1.a.1.A. The patron's name;

154.1.a.1.B. The requested credit line;

154.1.a.1.C. The patron's current home address;

154.1.a.1.D. The patron's current home telephone number;

154.1.a.1.E. The patron's date of birth;

154.1.a.1.F. The patron's current Place of employment and position held;

154.1.a.1.G. The patron's employer's address and telephone number;

154.1.a.1.H. The patron's bank address;

154.1.a.1.I. The patron's checking account number; and

154.1.a.1.J. The patron's Social Security number;

154.1.a.2. The authorized credit limit;

154.1.a.3. A photocopy of the patron's identification;

154.1.a.4. A history of all credit issued to the patron and payments

received or written off by the limited gaming facility licensee; and

154.1.a.5. Verification of the credit application and approval of credit establishment;

154.1.b. Procedures for verification of the credit application;

154.1.c. Procedures for the review and approval of the credit limit for the patron, including specific minimum credit-worthiness standards a patron requesting credit must meet, such as a minimum credit rating number, and the casino maximum credit limit for a patron;

154.1.d. Procedures for the computerized or manual issuance of markers;

154.1.e. A designation of the licensed occupational positions that are authorized to issue markers;

154.1.f. A description of the marker and the information and signatures required to authorize the marker;

154.1.g. A description of the procedures for processing payments against credits received by the casino licensee;

154.1.h. Procedures to be followed in connection with accepting front money deposits;

154.1.i. Procedures to be followed in connection with cashing checks or drafts by the limited gaming facility licensee, including identifying the types of checks that may be cashed;

154.1.j. Procedures to be followed in the handling of returned checks;

154.1.k. Procedures for the collection of past due markers and returned checks, and procedures for the write-off of past due markers and returned checks;

~~154.1.d.~~154.1.l. Procedures to increase or decrease an established credit line; and

~~154.1.e.~~154.1.m. Other procedures considered necessary by the Director or the Commission to ensure compliance with the Act and this rule.

154.2. The limited gaming facility licensee shall not extend credit to a patron who has exceeded an established credit line.

#### **§179-4-155. Verification of Credit.**

155.1. The limited gaming facility licensee may verify a patron's outstanding indebtedness, as required by this rule, by contacting a consumer credit bureau that is reasonably

likely to possess information concerning the patron or a casino credit bureau, or both, to determine whether the patron has any liabilities or if there is any derogatory information concerning the patron's credit history.

155.2. Credit bureau contact shall be considered a verification of the outstanding indebtedness provided by the patron. If credit bureau contact is not immediately possible, then the limited gaming facility licensee may use an alternative source that has made the required contact. The limited gaming facility licensee shall record the source of verification and the method by which the verification was performed in the patron's credit file.

155.3. If neither credit bureau has information relating to a patron's outstanding indebtedness, then the limited gaming facility licensee shall record this information in the patron's credit file.

#### **§179-4-156. Issuance of Markers.**

156.1. The limited gaming facility licensee shall establish procedures for the computerized or manual issuance of markers, including, at a minimum, all of the following:

156.1.a. A designation of the licensed occupational positions that are authorized to issue markers and a description of their duties;

156.1.b. A description of where markers can be issued.

156.1.c. A description of the marker and the information and signatures required to authorize the marker. Both of the following provisions specify requirements for a marker:

156.1.c.1. The limited gaming facility licensee shall submit the form of its markers to the Commission prior to its use;

156.1.c.2. The form must be a 3-part, numbered form;

156.1.c.3. The marker shall include, but not be limited to, all of the following information:

156.1.c.3.A. The patron's name and casino account number;

156.1.c.3.B. The dollar amount of the marker;

156.1.c.3.C. The casino marker number;

156.1.c.3.D. The current time and date;

156.1.c.3.E. The required signatures; and

156.1.c.3.F. A description of the term of repayment, including the

rate of interest, if any;

156.1.d. A description of the distribution of each part of the marker;

156.1.e. Verification of the patron's identity through identification credentials before the issuance of the marker;

156.1.f. Verification of available credit;

156.1.g. A description of the recording of the credit transaction;

156.1.h. A description of accountability and control over the markers; and

156.1.i. Other information considered necessary by the Commission to ensure compliance with this rule.

156.2. A computer record and computerized log shall be maintained identifying the information in subdivisions 156.1a through 156.1.i of this rule for not less than ~~5~~ the current year and the two preceding years.

#### **§179-4-157. Receipt of Payments.**

~~157.1.~~The limited gaming facility licensee shall establish policies and procedures approved by the West Virginia Lottery in accordance with this rule to ensure that all payments received on outstanding credit instruments are recorded in a timely fashion. The procedures shall, at a minimum, include all of the following:

~~157.1.a.~~157.1. A description of the procedure for processing payments received by the limited gaming facility licensee in any manner;

~~157.1.b.~~157.2. Requirements for the consolidation of markers;

~~157.1.c.~~157.3. A detailed description of the distribution of all parts of redeemed and consolidated markers and redemption vouchers; and

~~157.1.d.~~157.4. A detailed allocation of principal and interest on each payment made, if any.

#### **§179-4-158. Front Money Deposits.**

158.1. The limited gaming facility licensee shall establish procedures approved by the Commission in accordance with this rule in connection with front money deposits. The limited gaming facility licensee shall establish policies and procedures approved by the Commission in accordance with this rule to ensure that all applicable currency transaction reporting requirements will be enforced in accordance with applicable state and federal law.

158.2. Any of the following may be accepted from patrons for the purpose of customer deposits:

158.2.a. Cash or a cash equivalent;

158.2.b. Value chips issued by the limited gaming facility licensee; and

158.2.c. Tokens issued by the limited gaming facility licensee.

158.3. Deposits or withdrawals shall be documented on a voucher that is not less than a 2-part, numbered form. The voucher shall be completed by the casino cage cashier and shall include, at minimum, all of the following information:

158.3.a. The patron's name and signature;

158.3.b. The date of receipt or disbursement;

158.3.c. The amount of deposit;

158.3.d. The type of deposit; and

158.3.e. The casino cashier's signature.

158.4. The limited gaming facility licensee shall provide, to the Commission, a monthly report detailing, at a minimum, all of the following:

158.4.a. Outstanding credit;

158.4.b. Checks returned and held;

158.4.c. Collection activities taken; and

158.4.d. Settlement of disputed items.

158.5. All of the following checks shall be deposited not later than the business day after the day the checks are received or dated:

158.5.a. Cashier's checks;

158.5.b. Money orders;

158.5.c. Credit card advance checks;

158.5.d. Traveler's checks; and

158.5.e. Wire transfer service checks.

158.6. Personal checks shall be deposited not later than the business day after the day the checks are received or dated, unless otherwise agreed to by the limited gaming facility licensee and the patron.

**§179-4-159. Check Cashing.**

159.1. The limited gaming facility licensee shall establish policies and procedures approved by the Commission in accordance with this rule in connection with cashing checks or drafts by the limited gaming facility licensee. Only the following types of checks may be cashed by the limited gaming facility licensee:

159.1.a. Personal checks;

159.1.b. Drafts;

159.1. c. Cashier's checks;

159.1.d. Money orders;

159.1.e. Credit card and debit card advance checks;

159.1.f. Traveler's checks; and

159.1.g. Wire transfers and other kinds of checks approved by the Commission;

159.2. The limited gaming facility licensee shall establish check-cashing privileges and limits that shall, at a minimum, incorporate the procedures established this rule.

159.3. When checks are cashed for a patron, the limited gaming facility licensee shall:

159.3.a. Examine the patron's picture identification and compare the signature on the identification credential to the signature on the check to ensure agreement. If the signatures do not match, then the limited gaming facility licensee shall not extend credit to the patron;

159.3.b. Immediately stamp the check "for deposit only;"

159.3.c. Date and time stamp the check;

159.3.d. Initial the check; and

159.3.e. Count out, in full public view and in the view of the surveillance camera, the funds requested by the patron.

159.4. If a patron's personal check is cashed, then the cashier shall perform the procedures outlined in subsection 159.3 of this rule and shall:

159.4.a. Record the picture identification number if the check is under \$500.00 and check-cashing privileges have not been established by the patron;

159.4.b. Determine if the patron's available credit is sufficient to cover the amount of the personal check, if applicable;

159.4.c. Refuse to cash a patron's personal if the patron has a balance outstanding to the limited gaming facility licensee, due to checks previously cashed by the limited gaming facility licensee, for more than 30 days;

159.4.d. Hold a personal check against established credit lines for the earlier of 7 days or the date that the check cleared the financial institution upon which it was drawn.

#### **§179-4-160. Handling of Returned Checks.**

160.1. The limited gaming facility licensee shall establish policies and procedures approved by the Commission in the same manner as the procedures for extension of credit for the handling of returned checks.

160.2. A returned check shall be received and documented on a returned check log by a department independent of the casino cage or credit department, or both. If the licensee uses a check-cashing service, then the licensee shall establish a procedure for the retention of copies of returned checks.

160.3. The limited gaming facility licensee shall establish procedures for collecting and recording checks returned to the limited gaming facility licensee after deposit, including redeposit procedures.

160.4. The limited gaming facility licensee's collections department shall maintain a continuous record of all returned checks. The records shall contain all of the following information:

160.4.a. The original date of the check;

160.4.b. The name and address of the drawer of the check;

160.4.c. The amount of the check;

160.4.d. The date the check was dishonored; and

160.4.e. The date or dates and amount or amounts of any collections received on the check after being returned by a bank.

160.5. A returned check is considered the issuance of credit and shall be handled in accordance with the collection of credits.

160.6. The limited gaming facility licensee shall describe its procedures for notifying the casino cage, credit departments, or the equivalent of credit departments of returned checks and of the prohibition from granting further credit to patrons whose checks have been returned and remain unsatisfied.

**§179-4-161. Collection of Past Due Accounts.**

~~161.1.~~The limited gaming facility licensee shall establish policies and procedures for the collection of past due markers and returned checks. The procedures shall be approved by the Commission in the same manner as the extension of credit.

**§179-4-162. Write-Off of Past Due Accounts.**

~~162.1.~~The limited gaming facility licensee shall establish policies and procedures for the write-off of past due markers and returned checks. The procedures shall be approved by the Commission. The procedures shall, at a minimum, shall satisfy both of the following provisions:

~~162.1.a.~~162.1. Establish a write-off committee; and

~~162.1.b.~~162.2. Authorize write-off by the write-off committee.

**§179-4-163 through 170. [Reserved]**

**PART 10. EXCLUSION OF PERSONS**

**§179-4-171. Exclusion List; Duty to Exclude.**

171.1. Entry into the limited gaming facility of the historic resort hotel shall be denied to any person who is excluded under this rule. If the Director places a person on the Commission exclusion list, the person is prohibited from entering the limited gaming facility until a determination is made by the Commission or a court to the contrary.

171.2. The limited gaming facility licensee shall exclude or eject any excluded person from its premises if the limited gaming facility licensee or the licensee's agents know or reasonably should know that the person is on the exclusion list.

171.3. The limited gaming facility licensee shall inform the Commission, in writing, of the names of persons that it knows or should know meet the criteria for placement on an exclusion list and the reason the person meets the exclusion criteria.

171.4. This rule does not preclude the limited gaming facility licensee from ejecting or barring a person from its casino for reasons considered necessary by the licensee. The limited gaming facility licensee may seek to have a person it has ejected or barred from its premises placed on the exclusion list.

#### **§179-4-172. Distribution and Availability of Exclusion Lists.**

~~172.1.~~The Commission shall maintain a list of persons to be ejected or excluded from the limited gaming facility. The exclusion list shall be a public record. The list may be distributed to law enforcement agencies. All of the following information, to the extent known, shall be provided for each excluded person:

~~172.1.a.~~172.1. The person's full name and date of birth and all aliases;

~~172.1.b.~~172.2. A physical description of the person;

~~172.1.c.~~172.3. The effective date the person's name was placed on the exclusion list;

~~172.1.d.~~172.4. A photograph of the person, if available;

~~172.1.e.~~172.5. The person's occupation and current home and business addresses; and

~~172.1.f.~~172.6. Other information considered necessary by the Director to facilitate identification of the person placed on the exclusion list.

#### **§179-4-173. Criteria for Exclusion and Placement on Exclusion List.**

~~173.1.~~The Director may place a person on the exclusion list pending a hearing if any of the following provisions apply to the person:

~~173.1.a.~~173.1. The person has been convicted of a felony in any jurisdiction or has been convicted of a misdemeanor in any jurisdiction involving gambling theft, dishonesty, or fraud;

~~173.1.b.~~173.2. The person has violated the Act, ~~or this rule,~~ or the minimum internal control standards adopted by the Commission;

~~173.1.c.~~173.3. The person has performed any act, or has a reputation, that would adversely affect public confidence and trust in the integrity of gaming;

~~173.1.d.~~173.4. The person is included on any valid and current exclusion list from another jurisdiction in the United States; and

~~173.1.e.~~173.5. The person has realized that he or she has a compulsive gambling disorder and has requested in writing to be excluded from the limited gaming facility and/or all of the state's four pari-mutuel racetracks' video lottery gaming areas.

#### **§179-4-174. Procedure for Entry of Names on Exclusion List.**

174.1. Upon a determination that a person comes under any of the criteria for exclusion, the person may be subject to exclusion and the Director shall file a notice of exclusion. The notice shall include all of the following information:

174.1.a. The identity of the person;

174.1.b. The nature and scope of the circumstances or reasons that the person should be placed on the exclusion list;

174.1.c. Names of potential witnesses; and

174.1.d. A recommendation as to whether the exclusion or ejection is be permanent. The notice shall also inform the person of the availability of a hearing before the Commission.

174.2. A person excluded from the limited gaming facility shall make a request for a hearing within ~~21~~ thirty days from the date the notice of exclusion was served.

174.3. If a person is excluded or ejected from the casino or the video lottery gaming area of a licensed racetrack, then the person is prohibited from further entering the casino or the video lottery gaming area of a licensed racetrack until a determination is made by the Commission on the merits of a filed notice of exclusion or a requested hearing. If a determination by the Commission is appealed, then the exclusion shall continue until the judicial review is completed unless otherwise ordered by the court.

174.4. If the Commission or a subsequent judicial review finds in favor of an excluded person, then the person's name shall be removed from the exclusion list and the excluded person's exclusion shall be terminated as of the date of the decision of the Commission or the court. If the finding is against the excluded person, then the excluded person's name shall remain on the exclusion list. If a hearing is not requested, then the excluded person's name shall remain on the exclusion list.

174.5. If the notice of exclusion provides for a temporary exclusion, then the Director shall set the term of the temporary exclusion. In making this time determination, the Director may consider the recommendation of the West Virginia Lottery staff. A temporary exclusion shall not be less than ~~6 months~~ one hundred eighty days. A temporary exclusion shall only apply to a person excluded or ejected for disruptive conduct. All other exclusions shall be permanent.

#### **§179-4-175. Petition for Removal From Exclusion List.**

175.1. A person who has been placed on any exclusion list may petition the Commission, in writing, and request that his or her name be removed from the exclusion list.

175.2. The provisions of W. Va. Code §29A-5-1 et seq. and the West Virginia Lottery's Administrative Appeals Procedures rule 179 CSR 2 shall apply to protests of exclusion under this section.

### **~~PART 11. OFFENSES AND PENALTIES; FORFEITURE OF PROPERTY~~**

**~~§179 4 176. Offenses and Penalties.~~**

~~176.1. A gaming licensee is guilty of unlawful operation of a game of chance when:~~

~~176.1.a. The licensee operates a game of chance in any location other than a gaming facility;~~

~~176.1.b. The licensee acts, or employs another person to act, as a shill or decoy to encourage participation in a game of chance in a gaming facility;~~

~~176.1.c. The licensee knowingly permits an individual under the age of twenty one years of age to enter or remain in a gaming facility for the purpose of making a wager; or~~

~~176.1.d. The licensee exchanges tokens, chips or other forms of credit to be used for wagering in a gaming facility for anything of value except in exchange for money.~~

~~176.2. A person is guilty of felonious wager when:~~

~~176.2.a. The person offers, promises or gives anything of value or benefit to a person who is connected with a gaming facility pursuant to an agreement or arrangement or with intent that the promise or thing of value or benefit will influence the actions of the person to whom the offer, promise, or gift was made in order to affect or attempt to affect the outcome of an authorized game of chance, or to influence official action of the Commission. For the purposes of this section, the term "person who is connected with a gaming facility" includes, but is not limited to, an officer or employee of the limited gaming facility licensee or supplier licensee;~~

~~176.2.b. The person solicits or knowingly accepts or receives a promise of anything of value or benefit while the person is connected with a gaming facility, pursuant to an understanding or arrangement or with the intent that the promise or thing of value or benefit will influence the Actions of the person to affect or attempt to affect the outcome of an authorized game of chance, or to influence official action of the Commission;~~

~~176.2.c. The person uses or possesses with the intent to use a device to assist:~~

~~176.2.c.1. In projecting the outcome of an authorized game of chance;~~

~~176.2.c.2. In keeping track of cards played or in play;~~

~~176.2.c.3. In analyzing the probability of the occurrence of an event relating to an authorized game of chance; or~~

~~176.2.c.4. In analyzing the strategy for playing or betting to be used in an authorized game of chance, except as permitted by the Commission;~~

~~176.2.d. The person cheats at an authorized game of chance in a gaming facility;~~

~~176.2.e. The person manufactures, sells, or distributed any cards, chips, dice, game or device which is intended to be used to violate any provision of this article;~~

~~176.2.f. The person instructs a person in cheating or in the use of a device for that purpose with the knowledge or intent that the information or use conveyed may be employed to violate any provision of the article;~~

~~176.2.g. The person places a bet after acquiring knowledge, not available to all players, of the outcome of the game of chance which is the subject of the bet, or aids a person in acquiring the knowledge for the purpose of placing a bet contingent on that outcome;~~

~~176.2.h. The person claims, collects, takes or attempts to claim, collect, or take, money or anything of value into or from a gaming facility, with intent to defraud, without having made a wager contingent on winning a game of chance, or claims, collects, or takes an amount of money or thing of value or greater value than the amount won;~~

~~176.2.i. The person uses counterfeit chips or tokens to place a wager in a gaming facility;~~

~~176.2.j. The person knowingly uses any medium other than chips, tokens or other methods of credit approved by the Commission to place a wager in a gaming facility;~~

~~176.2.k. The person, not a gaming licensee or employee or agent of a gaming licensee acting in furtherance of the gaming licensee's interests, has in his or her possession any device intended to be used to violate a provision of the Act or this rule;~~

~~176.2.l. The person, not a gaming licensee or agent of a gaming licensee acting in furtherance of the gaming licensee's interests, has in his or her possession any key or device designed for the purpose of opening, entering, or affecting the operation of an authorized game of chance, drop box or an electronic or mechanical device connected with or used in connection with an authorized games of chance in a gaming facility or for removing coins, tokens, chips or other contents from the device;~~

~~176.3. Any person who violates the provisions of subsection 176.1 of this section is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than one thousand dollars or confined in a county or regional jail for not more than six months.~~

~~176.4. Any person who violates the provisions of subsection 176.2 of this section is guilty of a felony and, upon conviction thereof, shall be fined not less than five thousand dollars nor more than ten thousand dollars and committed to the department of corrections of a definite term of imprisonment of not less than one year nor more than five years.~~

~~176.5. Anything of value, including all traceable proceeds including, but not limited to, real and personal property, moneys negotiable instruments, securities and conveyances, is subject to forfeiture to the State of West Virginia if the item was used for any of the following:~~

~~176.5.a. As a bribe intended to affect the outcome of an authorized game of chance in a gaming facility; or~~

~~176.5.b. In exchange for or to facilitate a violation of this article,~~

~~176.6. Subsection 176.5 of this section does not apply if the act or omission which would give rise to the forfeiture was committed or omitted without knowledge or consent of the owner of the property to be forfeited.~~

~~176.7. The Commission may impose on a person who violates the provisions of the Act or this rule a civil penalty not to exceed ten thousand dollars for each violation, whether or not the person is licensed under this article.~~

~~176.8. The provisions of W. Va. Code §29A-5-1 et seq. and the West Virginia Lottery's Administrative Appeals Procedures rule 179-CSR-2 apply to any civil penalty imposed pursuant to the provisions of this section.~~

~~§179-4-177 §179-4-176 through 180. [Reserved]~~

## **PART ~~12~~ 11. DISPUTE PROCEDURES**

### **§179-4-181. Patron Dispute Process.**

181.1. The limited gaming facility licensee shall attempt to resolve all patron disputes and has a period of 10 business days to investigate a patron complaint and resolve the dispute.

181.2. If the limited gaming facility licensee and the patron cannot resolve the dispute, then the licensee shall advise the patron of the patron's right to file a complaint form with the Commission. The complaint may be received by the a West Virginia Lottery employee or member of the West Virginia State Police at the West Virginia Lottery office in the casino and sent send a copy of the complaint to West Virginia Lottery headquarters. The limited gaming facility licensee shall provide a patron with a complaint form upon request.

181.3. A complaint shall contain, at a minimum, all of the following information:

181.3.a. The name, address, and telephone number of the patron;

181.3.b. A summary of the nature of the patron complaint, including the date and time on which the incident leading to the dispute occurred;

181.3.c. The physical location and/or identity of the West Virginia Lottery table game or gaming device where the complaint arose, if applicable;

~~181.3.c.~~181.3.d. A list of the names, if known, of any occupational licensees that were involved in, or a witness to, the incident that led to the patron dispute;

~~181.3.d.~~181.3.e. The name, address, and telephone number, if known, of any witnesses to the incident that led to the patron dispute;

~~181.3.e.~~181.3.f. A summary of the limited gaming facility licensee's attempt to resolve the patron dispute; and

~~181.3.f.~~181.3.g. Other information considered necessary by the Director or the Commission.

181.4. If possible, the West Virginia Lottery representative shall interview the complaining patron in the West Virginia Lottery office in the casino at the time the patron submits his or her complaint. During that interview, the representative may retrieve and view any available recorded security images for a more detailed understanding of the alleged incident.

~~181.4.~~181.5. A patron shall submit the complaint in writing within ~~twenty one business~~ five calendar days of the incident that led to the patron dispute. ~~The patron shall provide a copy of the complaint to the limited gaming facility licensee at the same time that the patron submits the complaint to the West Virginia Lottery.~~ The West Virginia Lottery representative shall provide a copy of the complaint to the limited gaming facility licensee at the same time that the representative submits the complaint copy to West Virginia headquarters.

~~181.5.~~181.6. The limited gaming facility licensee shall submit an answer to the complaint to the Commission in writing within fourteen business days of receiving a copy of the patron's complaint. The limited gaming facility licensee shall provide a copy of the answer to the complaining patron at the same time that the limited gaming facility licensee submits the answer to the West Virginia Lottery.

181.7. Until the Commission has released the recorded images that are connected to the complaint, the limited gaming facility licensee shall not destroy, erase or record over the images.

#### **§179-4-182. Investigation; Possible Disciplinary Action.**

~~182.1.~~ The Commission shall determine if a patron dispute requires investigation. If the Commission determines that an investigation is necessary, then the West Virginia Lottery security division shall conduct the investigation. If it is determined that the limited gaming facility licensee or an occupational licensee violated the Act, ~~or~~ this rule, or the minimum internal control standards adopted by the Commission, then the Commission may initiate disciplinary action.

#### **§179-4-183. Appeals by License Applicants, License Holders and Patrons.**

183.1. A person who appeals an adverse decision or action by the Commission or the Director pursuant to section seventeen of the Act shall give security for the cost of the hearing in the amount of three hundred dollars in the form of a certified check, cashier's check or money order, which shall accompany the petition demanding a hearing.

183.2. The Commission may from time to time increase or decrease the amount of

security by interpretive rule or Commission order, giving consideration to the actual average cost of holding an administrative hearing.

183.3. The fee may be waived by the Commission or Director for good cause shown.