

LEGISLATIVE BILL 295

Approved by the Governor April 11, 1988

Introduced by V. Johnson, 8

AN ACT relating to gambling; to amend sections 9-201, 9-203, 9-211, 9-212, 9-215, 9-216, 9-218, 9-222, 9-226 to 9-233, 9-236, 9-242 to 9-244, 9-246, 9-247, 9-253, 9-258, 9-259, and 9-261, Revised Statutes Supplement, 1986, and section 9-262, Revised Statutes Supplement, 1987; to define, redefine, and eliminate terms; to change provisions relating to the issuance, denial, renewal, suspension, and expiration of certain licenses and permits; to provide for the classification of licenses; to provide penalties; to change provisions relating to appeals, the compensation of certain persons, and the purchase of supplies as prescribed; to require licenses for gaming managers and commercial lessors as prescribed; to restrict the leasing of premises as prescribed; to provide fees; to require payment of expenses from a certain account as prescribed; to provide that certain documents are public records; to harmonize provisions; to provide an operative date; and to repeal the original sections, and also section 9-224, Revised Statutes Supplement, 1986.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 9-201, Revised Statutes Supplement, 1986, be amended to read as follows:

9-201. Sections 9-201 to 9-265 and sections 3, 4, 12, 23, 24, 28, and 34 of this act shall be known and may be cited as the Nebraska Bingo Act.

Sec. 2. That section 9-203, Revised Statutes Supplement, 1986, be amended to read as follows:

9-203. For purposes of the Nebraska Bingo Act, unless the context otherwise requires, the definitions found in sections 9-204 to 9-225 and sections 3 and 4 of this act shall be used.

Sec. 3. Commercial lessor shall mean a person, including a licensed organization permitted to conduct bingo under the Nebraska Bingo Act, who owns or is a lessee of premises which are offered for leasing to

a licensed organization on which bingo is or will be conducted.

Sec. 4. Gaming manager shall mean any person who is responsible for the supervision and operation of a bingo game on behalf of a licensed organization, including the conduct or operation of any lottery by the sale of pickle cards or any other kind of gambling activity at a bingo game which is authorized or regulated under Chapter 9. He or she shall be the authority on the premises where the bingo game is conducted and shall supervise and direct other people working at such bingo game.

Sec. 5. That section 9-211, Revised Statutes Supplement, 1986, be amended to read as follows:

9-211. (1) Lawful purpose, for a licensed organization making a donation of shall mean charitable or community betterment purposes including, but not limited to, one or more of the following:

(a) Benefiting persons by enhancing their opportunity for religious or educational advancement; by relieving or protecting them from disease, suffering, or distress; by contributing to their physical well-being; by assisting them in establishing themselves in life as worthy and useful citizens; or by increasing their comprehension of and devotion to the principles upon which this nation was founded;

(b) Initiating, performing, or fostering worthy public works or enabling or furthering the erection or maintenance of public structures; and

(c) Lessening the burdens borne by government or voluntarily supporting, augmenting, or supplementing services which government would normally render to the people.

(2) Lawful purpose shall not include any activity consisting of an attempt to influence legislation or participate in any political campaign on behalf of any elected official or person who is or has been a candidate for public office.

(3) Nothing in this section shall prohibit any veterans' organization which is nationally chartered by the Congress of the United States, or any auxiliary thereof, or any nonprofit organization holding a certificate of exemption under subsection (c), subdivision 3, 5, 7, 8, 10, or 19, of section 501 of the Internal Revenue Code from using its proceeds or profits derived from activities under the Nebraska Bingo Act in solely to and for its own organization, shall mean donating such profits for any activity which benefits and is conducted by the organization, including any

charitable, benevolent, humane, religious, philanthropic, recreational, social, educational, civic, or fraternal activity conducted by the organization for the benefit of its members.

(2) Lawful purpose, for a licensed organization making a donation of its profits derived from the conduct of bingo outside of its organization, shall mean donating such profits only to:

(a) A state, a territory or possession of the United States, any political subdivision of such state, territory, or possession, the United States, or the District of Columbia, but only if the contribution or gift is made exclusively for public purposes;

(b) A corporation, trust, community chest, fund, or foundation:

(i) Created or organized in the United States or in any territory or possession thereof or under the laws of the United States, any state, the District of Columbia, or any territory or possession of the United States;

(ii) Organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, for the prevention of cruelty to children or animals, or to foster national or international amateur sports competition;

(iii) No part of the net earnings of which inures to the benefit of any private shareholder or individual;

(iv) Which is not disqualified for tax exemption under section 501(c)(3) of the Internal Revenue Code by reason of attempting to influence legislation; and

(v) Which does not participate in any political campaign on behalf of any candidate for political office; or

(c) A post or organization of war veterans or an auxiliary unit or society of, trust for, or foundation for any such post or organization:

(i) Organized in the United States or in any territory or possession thereof; and

(ii) No part of the net earnings of which inures to the benefit of any private shareholder or individual.

(3) No donation of profits under this section shall (a) inure to the benefit of any individual member of the licensed organization making the donation except to the extent it is in furtherance of the purposes described in this section or (b) be used for any activity which attempts to influence legislation or for

any political campaign on behalf of any elected official or person who is or has been a candidate for public office.

(4) Upon dissolution of a licensed organization, all remaining profits derived from activities under the Nebraska Bingo Act shall be utilized for a lawful purpose and shall not be distributed to any private individual or shareholder. The disbursement of such remaining profits shall be reported to the department in the manner prescribed in section 9-259.

Sec. 6. That section 9-212, Revised Statutes Supplement, 1986, be amended to read as follows:

9-212. License shall mean any license to conduct bingo as provided in section 9-231, any license for a designated supervising member or designated member responsible for the proper utilization of gross receipts as provided in section 9-232, or any distributor's license as provided in section 9-235, any gaming manager's license as provided in sections 23 and 24 of this act, or any commercial lessor's license as provided in section 28 of this act.

Sec. 7. That section 9-215, Revised Statutes Supplement, 1986, be amended to read as follows:

9-215. Member shall mean a person who is recognized and acknowledged by a licensed organization as a member has qualified for and been admitted to membership in a licensed organization pursuant to its bylaws, articles of incorporation, charter, rules, or other written statement for purposes other than conducting activities under the Nebraska Bingo Act. Member shall not include social or honorary members.

Sec. 8. That section 9-216, Revised Statutes Supplement, 1986, be amended to read as follows:

9-216. Premises shall mean any room, hall, enclosure, or area a building or a distinct portion of a building in which bingo is being played and shall not include any area of land surrounding the building.

No premises shall be subdivided to provide multiple premises where games of bingo are managed, operated, or conducted whether or not such premises have different mailing addresses or legal descriptions.

Sec. 9. That section 9-218, Revised Statutes Supplement, 1986, be amended to read as follows:

9-218. Regular bingo card shall mean a reusable hard card, reusable shutter card, or disposable paper card which:

(1) Is manufactured with preprinted numbers;
and

(2) Affords affords a person the opportunity to participate in all regular games played at a bingo occasion.

Sec. 10. That section 9-222, Revised Statutes Supplement, 1986, be amended to read as follows:

9-222. Special bingo card shall mean a specially marked bingo card which:

(1) Is manufactured with preprinted numbers;
and

(2) Affords affords a person the opportunity to participate in a special bingo game to be played at a bingo occasion.

Sec. 11. That section 9-226, Revised Statutes Supplement, 1986, be amended to read as follows:

9-226. The department shall have the following powers, functions, and duties:

(1) To issue licenses;

(2) To deny any license application or renewal application for nonpayment of taxes and additions to taxes including penalties and interest or for noncompliance with any other provision of the Nebraska Bingo Act or any rule or regulation adopted and promulgated pursuant to the act cause. Cause for denial of an application for or renewal of a license shall include, but not be limited to, instances in which the applicant or licensee or any person with a substantial interest therein: (a) Violated the provisions, requirements, conditions, limitations, or duties imposed by the Nebraska Bingo Act, the Nebraska Pickle Card Lottery Act, or the Nebraska Lottery and Raffle Act or any rules or regulations adopted and promulgated pursuant to the acts; (b) knowingly caused, aided, abetted, or conspired with another to cause any person to violate any of the provisions of the Nebraska Bingo Act, the Nebraska Pickle Card Lottery Act, or the Nebraska Lottery and Raffle Act or any rules or regulations adopted and promulgated pursuant to the acts; (c) obtained a license or permit pursuant to the Nebraska Bingo Act, the Nebraska Pickle Card Lottery Act, or the Nebraska Lottery and Raffle Act by fraud, misrepresentation, or concealment; (d) was convicted of, forfeited bond upon a charge of, or pleaded guilty to forgery, larceny, extortion, conspiracy to defraud, willful failure to make required payments or reports to governmental agencies at any level, filing false reports with any such agency, or any similar offense or offenses or any crime, whether a felony or misdemeanor, involving any gambling activity or involving moral turpitude; (e) denied the department or its authorized representatives,

including authorized local law enforcement agencies, access to any place where bingo activity required to be licensed under the Nebraska Bingo Act is being conducted or failed to produce for inspection or audit any book, record, document, or item required by law; (f) made a misrepresentation of or failed to disclose a material fact to the department; (g) failed to prove by clear and convincing evidence his or her qualifications to be licensed in accordance with the Nebraska Bingo Act; or (h) failed to pay any taxes and additions to taxes, including penalties and interest, required by the Nebraska Bingo Act, the Nebraska Pickle Card Lottery Act, or the Nebraska Lottery and Raffle Act or any other taxes imposed pursuant to the Nebraska Revenue Act of 1967;

(3) To revoke, cancel, or suspend for cause any license. Cause for revocation, ~~or~~ cancellation, or suspension of a license shall include, but not be limited to, instances in which the licensee or any person with a substantial interest therein: (a) Violated the provisions, requirements, conditions, limitations, or duties imposed by the Nebraska Bingo Act or any rules or regulations adopted and promulgated pursuant to the act; (b) knowingly caused, aided, abetted, or conspired with another to cause any person to violate any of the provisions of the Nebraska Bingo Act or any rules or regulations adopted and promulgated pursuant to the act; (c) obtained a license pursuant to the Nebraska Bingo Act by fraud, misrepresentation, or concealment; (d) was convicted of, forfeited bond upon the charge of, or pleaded guilty to forgery, larceny, extortion, conspiracy to defraud, willful failure to make required payments or reports to a governmental agency at any level, filing false reports with any such agency, or any similar offense or offenses or any crime, whether a felony or misdemeanor, involving any gambling activity or moral turpitude; (e) denied the department or its authorized representatives, including authorized law enforcement agencies, access to any place where bingo activity required to be licensed under the act is being conducted or failed to produce for inspection or audit any book, record, document, or item required by law; (f) made a misrepresentation of or failed to disclose a material fact to the department; or (g) failed to pay any taxes and additions to taxes, including penalties and interest, required by the Nebraska Bingo Act;

(4) To issue and cause to be served upon any license holder an order requiring the license holder to

cease and desist from violations of the Nebraska Bingo Act. The order shall give reasonable notice of the rights of the license holder to request a hearing and shall state the reason for the entry of the order. A hearing shall be held not later than seven days after the request for the hearing is received by the Tax Commissioner, and within twenty days of the date of the hearing, the Tax Commissioner shall issue an order vacating the cease and desist order or making it permanent as the facts require. All hearings shall be held in accordance with the practice and procedure regulations of the department. If the license holder to whom a cease and desist order is issued fails to appear at the hearing after being duly notified, the license holder shall be deemed in default and the proceeding may be determined against the license holder upon consideration of the cease and desist order, the allegations of which may be deemed to be true; any noncompliance with any provision of the Nebraska Bingo Act or a violation of any rule or regulation adopted and promulgated pursuant to such act;

(5) (4) To enter or to authorize any law enforcement officer to enter at any time upon any premises where bingo activity required to be licensed under the act is being conducted to determine whether any of the provisions of such act or any rules or regulations adopted and promulgated under it have been or are being violated; and at such time to examine such premises;

(6) To require periodic reports of bingo activity from license holders under the Nebraska Bingo Act as the department deems necessary to carry out the act;

(7) (5) To examine or to cause to have examined, by any agent or representative designated by the department for such purpose, any books, papers, records, or memoranda relating to bingo activities of any licensee, to require by administrative order or summons the production of such documents or the attendance of any person having knowledge in the premises, to take testimony under oath, and to require acquire proof material for its information. If any such person willfully refuses to make documents available for examination by the department or its agent or representative or willfully fails to attend and testify, the department may apply to a judge of the district court of the county in which such person resides for an order directing such person to comply with the department's request. If any documents requested by the

department are in the custody of a corporation, the court order may be directed to any principal officer of the corporation. Any person who fails or refuses to obey such a court order shall be guilty of contempt of court;

(8) ~~(6)~~ Unless specifically provided otherwise, to compute, determine, assess, and collect the amounts required to be paid to the state as taxes imposed by the act in the same manner as provided for sales and use taxes in the Nebraska Revenue Act of 1967; and

(9) ~~(7)~~ To adopt and promulgate such rules and regulations, prescribe such forms, and employ such staff, including inspectors, as are necessary to carry out the act.

Sec. 12. (1) Before any application is denied pursuant to section 9-226, the department shall notify the applicant in writing of the department's intention to deny the application and the reasons for the denial. Such notice shall inform the applicant of his or her right to request an administrative hearing for the purpose of reconsideration of the intended denial of the application.

(2) A request for hearing by the applicant shall be in writing and shall be filed with the department within thirty days after the service of notice to the applicant of the department's intended denial of the application. If a request for hearing is not filed within the thirty-day period, the license application denial shall become final at the expiration of such period.

(3) If a request for hearing is filed within the thirty-day period, the Tax Commissioner shall grant the applicant a hearing and shall, at least ten days before the hearing, serve notice upon the applicant by certified or registered mail, return receipt requested, of the time, date, and place of the hearing. Such proceedings shall be considered contested cases pursuant to the Administrative Procedure Act.

Sec. 13. That section 9-227, Revised Statutes Supplement, 1986, be amended to read as follows:

9-227. (1) The Tax Commissioner may suspend any license, except that no order to suspend any license shall be issued ~~except upon a finding by~~ unless the department ~~determines~~ that the licensee is not operating in accordance with the purposes and intent of the Nebraska Bingo Act.

(2) Before any license is suspended, notice of an order to suspend a license shall be mailed to the

licensee at least fifteen days before the order of suspension takes effect.

(3) The order of suspension ~~shall~~ may be withdrawn if the licensee provides the department with evidence that any prior findings or violations have been corrected and that the licensee is now in full compliance with the act, whether before or after the effective date of the order of suspension.

(4) The Tax Commissioner may issue an order of suspension pursuant to subsections (1), (2), and (3) of this section when an action for suspension, cancellation, or revocation is pending. The Tax Commissioner may also issue an order of suspension after a hearing for a limited time of up to one year without an action for cancellation or revocation pending.

(5) The hearing for suspension, cancellation, or revocation of the license shall be held within twenty days of the date the suspension takes effect. A request by the licensee to hold the hearing after the end of the twenty-day period shall extend the suspension until the hearing.

(6) The decision of the department shall be made within twenty days of the conclusion of the hearing. The suspension shall continue in effect until the decision is issued. If the decision is that an order of suspension, revocation, or cancellation is not appropriate, the suspension shall terminate immediately by order of the Tax Commissioner. If the decision is an order for the suspension, revocation, or cancellation of the license, the suspension shall continue pending ~~an application for rehearing or~~ an appeal of the decision of the department.

(7) Any period of suspension prior to the issuance of an order of suspension issued by the Tax Commissioner shall count toward the total amount of time a licensee shall be suspended from gaming activities under the Nebraska Bingo Act. Any period of suspension prior to the issuance of an order of cancellation shall not reduce the period of the cancellation. Any period of suspension after the issuance of the order and during ~~a rehearing or an~~ appeal shall be counted as a part of the period of cancellation.

Sec. 14. That section 9-228, Revised Statutes Supplement, 1986, be amended to read as follows:

9-228. Before the adoption, amendment, or repeal of any rule or regulation or the suspension, revocation, or cancellation of any license pursuant to section 9-226, the department shall set the matter for hearing. Such suspension, revocation, or cancellation

proceedings shall be considered contested cases pursuant to the Administrative Procedure Act.

At least ten days before the hearing, the department shall (1) in the case of suspension, revocation, or cancellation, serve notice upon the licensee by certified or registered mail, return receipt requested, of the time, date, and place of any hearing or (2) in the case of adoption, amendment, or repeal of any rule or regulation, issue a public notice of the time, date, and place of such hearing.

Sec. 15. That section 9-229, Revised Statutes Supplement, 1986, be amended to read as follows:

9-229. (1) A copy of the order or decision of the department in any proceeding before it, certified under the seal of the department, shall be served upon each party of record to the proceeding before the department. Service upon any attorney of record for any such party shall be deemed to be service upon such party. Each party appearing before the department shall enter his or her appearance and indicate to the department his or her address for the service of a copy of any order, decision, or notice. The mailing of any copy of any order or decision or of any notice in the proceeding; to such party at such address; shall be deemed to be service upon such party.

(2) At the time of making an appearance before the department, each party shall deposit in cash or furnish a sufficient security for costs in an amount the department ~~shall deem~~ ~~deems~~ adequate to cover all costs liable to accrue, including costs for (a) reporting the testimony to be adduced, (b) making up a complete transcript of the hearing, and (c) extending reporter's original notes in typewriting.

(3) ~~Within twenty days after the service of any order or decision of the department upon any party to the proceeding; such party may apply for a rehearing in respect to any matters determined by the department. The department shall consider such application for a rehearing within twenty days from the date of receipt of the rehearing application. If such application is granted; the department shall promptly consider the matters presented by such application. No appeal shall be allowed from any decision of the department; except as is provided for in subsection (4) of this section. Only one rehearing shall be granted by the department on the application of any one party.~~

(3) (4) Any decision of the department in any proceeding before it to revoke, cancel, or suspend or to refuse to revoke, cancel, or suspend a license may be

reversed, vacated, or modified by the district court as provided in the Administrative Procedure Act.

Sec. 16. That section 9-230, Revised Statutes Supplement, 1986, be amended to read as follows:

9-230. (1) No person, except a licensed organization operating pursuant to the Nebraska Bingo Act, shall conduct any game of bingo for which a charge is made or to the winner of which any prize with a value in excess of twenty-five dollars is awarded. Any such game conducted in violation of this subsection is hereby declared to be a public nuisance. Any person violating the provisions of this subsection shall be guilty of a Class III misdemeanor for the first offense and a Class I misdemeanor for the second or subsequent offense.

(2) No person shall play at any game of bingo conducted in violation of subsection (1) of this section. Any person violating the provisions of this subsection shall be guilty of a Class III misdemeanor for the first offense and a Class I misdemeanor for the second or subsequent offense.

Sec. 17. That section 9-231, Revised Statutes Supplement, 1986, be amended to read as follows:

9-231. (1) Any nonprofit organization holding a certificate of exemption under subsection (c), subdivision (3), (4), (8), or (19), of section 501 of the Internal Revenue Code or any volunteer fire company organized and operated pursuant to Chapter 35, article 1, may apply for a license to conduct bingo.

(2) Prior to applying for any license, an organization shall:

(a) Be incorporated in this state as a not-for-profit corporation or organized in this state as a religious or not-for-profit organization. For purposes of this subsection, a domesticated foreign corporation shall not be considered incorporated in this state as a not-for-profit corporation;

~~(b)~~ (b) Have at least ten members in good standing;

~~(b)~~ (c) Conduct activities within this state in addition to the conduct of bingo;

~~(c)~~ (d) Be authorized by its constitution, articles, charter, or bylaws to further in this state a lawful purpose;

~~(d)~~ (e) Operate without profit to its members, and no part of the net earnings of such organization shall inure to the benefit of any private shareholder or individual; and

~~(e)~~ (f) Have been in existence for five years immediately preceding its application for a license, and

shall have had during that five-year period a bona fide membership actively engaged in furthering a lawful purpose. A society defined in section 21-608, which is chartered in Nebraska under a state, grand, supreme, national, or other governing body, may use the charter date of its parent organization to satisfy such five-year requirement.

(3) None of the provisions of this section shall prohibit a senior citizens ~~groups~~ group from organizing and conducting bingo pursuant to the Nebraska Bingo Act when bingo is played only by members of the senior citizens ~~groups~~ group conducting the bingo. For purposes of this section, senior citizens group shall mean any organization ~~whose~~ the membership of which consists entirely of persons who are at least sixty years old.

Sec. 18. That section 9-232, Revised Statutes Supplement, 1986, be amended to read as follows:

9-232. Each applicant for a license to conduct bingo shall file with the department an application on a form prescribed by the department.

(1) Each application shall include:

(a) The name and address of the applicant;

(b) Sufficient facts relating to the incorporation or organization of the applicant to enable the department to determine if the applicant is eligible for a license under section 9-231;

(c) The name and address of each officer of the applicant organization;

(d) The name, address, date of birth, and years of membership of a bona fide and active member of the applicant organization who shall be responsible for the proper utilization of the gross receipts;

(e) A roster of members, if the department deems it necessary and proper; and

(f) Other information which the department deems necessary.

(2) In addition to the information required in subdivision (1) of this section, each application for a license to conduct bingo shall include:

(a) The name and address of the owner or lessor of the premises in which bingo will be conducted; ~~and the approximate capacity of the premises;~~

(b) The name, date of birth, and address of each supervising member for each bingo occasion who shall be a bona fide and active member of the applicant organization and of good moral character and one or more of whom shall be responsible for the conduct of bingo games at each bingo occasion; and

(c) Copies of all lease or rental agreements, if the department deems it necessary and proper.

(3) The information required by this section shall be kept current. An organization shall notify the department within thirty days if any information in the application is no longer correct and shall supply the correct information.

(4) A Except for a limited period bingo, a licensed organization shall not hold or conduct any bingo games or occasions until the changes proposed in subdivision (3) of this section have been approved by the department at any time, on any day, at any location, or in any manner different from that described in its most recent filing with the department unless prior approval has been obtained from the department at least thirty days in advance of the proposed change.

(5) The organization's bingo license shall be displayed conspicuously at the place where bingo is being conducted at all times during the conduct thereof.

(6) No member responsible for supervising the conduct of bingo for the organization, member or responsible for proper utilization of the gross proceeds receipts, commercial lessor, or gaming manager shall be connected, interested, or otherwise concerned directly or indirectly with any party licensed as a distributor under section 9-235.

(7) The department may issue a temporary license pending receipt of additional information or further inquiry.

(8) The department may prescribe a separate application form for renewal purposes containing such information as the department deems necessary for the proper administration of the Nebraska Bingo Act.

Sec. 19. That section 9-233, Revised Statutes Supplement, 1986, be amended to read as follows:

9-233. (1) All licenses to conduct bingo and licenses issued to designated supervising members and designated members responsible for the proper utilization of gross proceeds receipts shall expire on September 30 of each year or such other date as the department may prescribe by rule and regulation and may be renewed annually. Each annual application for a license shall be accompanied by:

(a) (1) A sworn statement of each designated supervising member that he or she will be responsible for compliance with appropriate rules and regulations; and

(b) (2) A sworn statement by the member designated as responsible for the proper utilization of

gross receipts that no commission, fee, rent, salary, profits, compensation, reward, or recompense will be paid to any person or organization except payments sanctioned by the department and that all profits will be spent for a lawful purpose, and

(3) A fifteen-dollar license fee, five dollars for a license for each designated supervising member, and five dollars for a license for each designated member responsible for the proper utilization of gross receipts.

(2) The department shall establish the following classes of licenses for licensed organizations:

(a) Class I licenses which shall include organizations with gross receipts from the conduct of bingo not exceeding one hundred thousand dollars per license year; and

(b) Class II licenses which shall include organizations with gross receipts from the conduct of bingo equal to or greater than one hundred thousand dollars per license year. For purposes of this subsection, when bingo occasions are conducted on a joint basis by two or more licensed organizations, the class of license required shall be determined based upon the combined gross receipts of all licensed organizations involved in the conduct of the bingo occasion.

(3) A fee of fifteen dollars shall be charged for a Class I license to conduct bingo, a fee of fifty dollars for a Class II license, a fee of five dollars for a license for each designated supervising member, and a fee of five dollars for a license for each designated member responsible for the proper utilization of gross receipts.

(4) The department shall adopt and promulgate rules and regulations to establish reporting requirements for each class of licensed organization.

Sec. 20. That section 9-236, Revised Statutes Supplement, 1986, be amended to read as follows:

9-236. Upon payment of an annual permit fee of ten dollars, a licensed organization shall obtain a permit from the city or village clerk or finance department when bingo is to be conducted within the limits of any incorporated city or village and from the county clerk when bingo is to be conducted outside the limits of any incorporated city or village. Such annual permit fee of ten dollars shall be paid before bingo is played and shall be paid to the city or village clerk or finance director or county clerk at the time of

obtaining the annual permit. When bingo is to be conducted jointly by two or more licensed organizations, such licensed organizations shall obtain a permit therefor by paying a fee of ten dollars. All permits shall expire on September 30 of each year or such other date as the department may prescribe by rule and regulation. Such permit shall be displayed conspicuously at the place where bingo is conducted at all times during the conduct thereof.

Sec. 21. That section 9-242, Revised Statutes Supplement, 1986, be amended to read as follows:

9-242. A licensed organization may shall purchase or rent bingo supplies or equipment from any distributor. Such purchase or rental shall be for the fair market value of the supplies or equipment and shall not include any services rendered. If requested to do so by the department, an organization shall be required to show that the amount charged for the purchase or rental of such supplies or equipment is not in excess of fair market value.

Sec. 22. That section 9-243, Revised Statutes Supplement, 1986, be amended to read as follows:

9-243. Any person conducting bingo, any designated supervising member, and any member designated responsible for the proper utilization of gross receipts shall be a member or officer of the licensed organization and shall not receive any compensation greater than an amount equal to four five dollars per hour for each hour such person acted as such. Any person conducting bingo and any designated supervising member shall not receive any compensation greater than thirty dollars per bingo occasion or limited period bingo occasion, except that any person whose primary duty is calling bingo or acting as a cashier shall not receive any compensation greater than an amount equal to sixty dollars per bingo occasion or limited period bingo occasion. A gaming manager shall not receive any compensation greater than an amount equal to one hundred dollars per bingo occasion or limited period bingo occasion regardless if such compensation is paid entirely from the licensed organization's bingo account or in part from other gaming activities authorized or regulated under Chapter 9 and conducted by the licensed organization. actually conducted bingo during a bingo occasion or limited period bingo occasion or such designated members actually acted as such-

Sec. 23. (1) An organization licensed to conduct bingo under a Class II license pursuant to section 9-233 shall be required to license a gaming

manager.

(2) No gaming manager licensed under the Nebraska Bingo Act shall be connected with or interested in, directly or indirectly, any person, partnership, firm, corporation, or other party licensed as a distributor under section 9-235 nor shall any such person hold any other licenses issued under the Nebraska Bingo Act or under any other kind of gaming activity which is authorized or regulated under Chapter 9.

Sec. 24. (1) Any person who desires to obtain a license as a gaming manager in this state shall file an application with the department for a license on a form prescribed by the department. Each application for a license shall include (a) the name, address, and social security number of the person applying for the license and (b) such other information which the department deems necessary. The information required by this subsection shall be kept current. A gaming manager shall notify the department within thirty days if any information in the application is no longer correct and shall supply the correct information.

(2) A gaming manager shall not manage and operate a bingo game on behalf of a licensed organization until an authorization has been obtained from the department by the licensed organization. The licensed organization shall file an application with the department for such authorization on a form prescribed by the department. Each application for an authorization shall include (a) the name, address, and social security number of the licensed gaming manager and (b) such other information which the department deems necessary. The application shall include a statement signed by a person licensed as a member responsible for the proper utilization of gross receipts signifying that such licensed organization approves the gaming manager to manage and operate the bingo game on behalf of such organization.

(3) A gaming manager may operate as such for more than one licensed organization. Each licensed organization for which the gaming manager manages and operates a bingo game shall obtain the authorization described in subsection (2) of this section.

(4) A fee of one hundred fifty dollars shall be charged for each license issued pursuant to this section. Such licenses shall expire on September 30 of each year or such other date as the department may prescribe by rule and regulation and shall be renewed annually.

Sec. 25. That section 9-244, Revised Statutes

Supplement, 1986, be amended to read as follows:

9-244. (1) Not more than ten bingo occasions per month may be held by a licensed organization. Bingo occasions held as part of a limited period bingo shall not be counted in determining whether a licensed organization has exceeded the limitation provided in this subsection.

(2) Irrespective of the number of licensed organizations authorized to hold bingo occasions within a single structure or building the premises, not more than two limited period bingos per license year and, with the exception of a limited period bingo, not more than two bingo occasions per week may be held within such structure or building premises. The governing board of the incorporated city or village in which such structure or building is premises are situated or the governing board of the county in which such structure or building is premises are situated, if it is such premises are situated outside the limits of an incorporated city or village, may allow, following actual notice to all licensed organizations within the boundaries of the political subdivision and published notice to the public and public hearing on such allowance, more than two bingo occasions per week within such structure or building premises. Such allowance may be granted for a period not to exceed three years and only upon an affirmative showing that no building or structure premises suitable for the conduct of a bingo occasion is are available for lease or rental within such political subdivision, except the structure or building premises for which the allowance is sought, and that no injury to the public welfare will result from such allowance.

(3) No licensed organization shall use any structure or building premises in any week for any bingo occasion, except a limited period bingo occasion, when the structure or building has premises have previously been used twice for bingo occasions during such week. For purposes of this section, week shall mean any period consisting of seven consecutive days.

Sec. 26. That section 9-246, Revised Statutes Supplement, 1986, be amended to read as follows:

9-246. No bingo occasion other than a limited period bingo shall be conducted except in a structure on premises which are owned by the licensed organization or in a structure on premises leased or rented by the licensed organization pursuant to the requirements for such arrangements set forth in the Nebraska Bingo Act. No licensed organization may conduct a bingo occasion

outside of the county in which the licensed organization has its principal office.

Sec. 27. That section 9-247, Revised Statutes Supplement, 1986, be amended to read as follows:

9-247. (1) No licensed organization shall lease any premises with rental payments based on a percentage of receipts or profits from bingo or on the number of persons participating in any bingo occasion. Rent shall be at a fixed ~~monthly~~ rate not subject to change during the term of the lease and not in excess of fair market value. All bingo occasions shall be conducted only by the licensed organization which holds such lease.

(2) All lease agreements shall be subject to approval by the department. If requested to do so by the department, an organization shall show that the amount of rent charged does not exceed fair market value.

(3) No lease of any premises shall contain any right to use bingo supplies, equipment, or any service.

(4) No licensed organization shall lease premises for the conduct of bingo from any person or business other than a licensed commercial lessor except as provided in section 28 of this act.

Sec. 28. (1) Any commercial lessor who desires to lease premises to a licensed organization for the purpose of conducting bingo shall file an application with the department for a license on a form prescribed by the department. Each application for a license shall include (a) the name and address of the applicant and of all other persons who have a substantial interest in or who are in any capacity a real party in interest in the applicant's business as pertains to the Nebraska Bingo Act, (b) a designated mailing address and legal description of the premises intended to be covered by the license sought, (c) the lawful capacity of the premises for public assembly purposes, (d) the names and mailing addresses of the officers of the licensed organization which is to conduct bingo at the premises and the place and time the licensed organization intends to conduct bingo, (e) the amount of rent to be paid or other consideration to be given directly or indirectly for each occasion for the use of the premises of the commercial lessor, and (f) any other information the department deems necessary.

(2) No person other than a licensed commercial lessor shall lease premises for the conduct of bingo unless specifically exempted from the requirement of being a licensed commercial lessor under the Nebraska

Bingo Act. A commercial lessor wishing to lease premises for the conduct of bingo who does not receive more than two hundred fifty dollars per month as aggregate total rent from leasing such premises for the conduct of bingo shall be exempt from obtaining a license to lease bingo premises. A not-for-profit organization renting its premises solely to its own auxiliary shall be exempt from the requirement of holding a license to lease bingo premises.

(3) An application for a commercial lessor license shall be accompanied by a fee of one hundred dollars.

(4) A commercial lessor license shall expire on September 30 of each year or such other date as the department may prescribe by rule and regulation and shall be renewed annually. Each premises shall be separately licensed. A commercial lessor may lease the same premises under the same license to more than one licensed organization. A commercial lessor who wants to lease more than one premises shall file a separate application and pay a separate fee for each premises.

Sec. 29. That section 9-253, Revised Statutes Supplement, 1986, be amended to read as follows:

9-253. Bingo games shall be conducted only in the following manner:

(1) All bingo cards used in a regular bingo game shall be sold at a price established before the start of the bingo occasion;

(2) At any bingo occasion except limited period bingo, any player buying or renting an additional regular card shall be entitled to use such card in all regular games conducted after he or she buys or rents the card;

(3) Each person admitted to a bingo occasion, other than limited period bingo, shall be furnished with a regular bingo card enabling him or her to play in all regular bingo games conducted at such bingo occasion;

(4) The licensed organization shall keep an accurate, separate count of the number of regular bingo cards and special bingo cards which are sold, rented, or used. Such information shall be available for inspection at the close of the bingo occasion;

(5) Method of play:

(a) The method of play in any bingo game and the utilization of bingo equipment and supplies shall be such that each player is afforded an equal opportunity to win;

(b) For any means of selection permitted by subdivision (1) or (2) of section 9-255, the designators

to be drawn shall be essentially the same in size, color, shape, weight, balance, and all other characteristics; so that at all times during the conduct of bingo, each designator possesses the capacity for equal agitation with any other object within the receptacle;

(c) All designators within the total set from which the selection is to be made shall be subject to random selection at the beginning of each bingo game;

(d) The announcement of all designators selected shall be clearly audible to the players present;

(e) When more than one room is used for any one bingo game, the receptacle or electronic selection device and the caller and any assistant shall be in the room where the greatest number of players are present; and all numbers, letters, or other designators shall be announced in a manner clearly audible to the players in each room;

(f) Once removed, no designator shall be returned to the receptacle until after the verification of the winner of the game in which any means of selection permitted by subdivision (1) or (2) of section 9-255 is ~~are~~ used; and

(g) The receptacle or electronic selection device and the caller shall be visible to the majority of players at all times;

(6) The particular arrangement of numbers, letters, or other designators required to be covered in order to win and the amount of the prize for any bingo game shall be clearly described and audibly announced to the players immediately before each game. The amount of the prize for any bingo game also shall be posted where the regular bingo cards are distributed;

(7) Verification of winner:

(a) The numbers, letters, or other designators appearing on the winning card at the time a winner is determined shall be verified in such a manner that all present can hear; and

(b) At the time a winner is determined, any player may call for a verification of all designators not yet selected. This verification shall be made in the immediate presence of the supervising member and at least one disinterested player;

(8) When more than one player is found to be the winner on the call of the same number, letter, or other designator in the same bingo game, a cash prize shall be divided equally, to the nearest nickel, among the winners. When equal division of a merchandise prize

is not possible, identical substitute merchandise prizes, the whose aggregate retail value of which is approximately equal to that of the designated prize, shall be awarded, and if not immediately available, the licensed organization shall deliver the prizes to the winners; and

(9) No licensed organization shall permit any person who is conducting or assisting in the conduct of bingo on a bingo occasion to participate as a player on that occasion; and

(10)(a) A licensed commercial lessor, distributor, or manufacturer, any person having a substantial interest in a licensed commercial lessor, distributor, or manufacturer, or any employee or agent of a licensed commercial lessor, distributor, or manufacturer shall not operate, manage, conduct, advise, or assist in the operating, managing, conducting, promoting, or administering of bingo. As used in this subdivision, the term assist shall include, but not be limited to, the payment of any expense of a licensed organization, whether such payment is by loan or otherwise; and

(b) A licensed commercial lessor shall not have a substantial interest in a licensed organization conducting bingo.

Sec. 30. That section 9-258, Revised Statutes Supplement, 1986, be amended to read as follows:

9-258. Bingo gross profits receipts less the amount awarded in prizes at each bingo occasion shall be segregated from other revenue of a licensed organization and placed in a separate checking account from which all payments shall be made relating to all allowable bingo expenses, including expenses for the management, operation, or conduct of any bingo games, except for the payment of prizes. Prizes may be paid out in cash by the licensed organization if the licensed organization obtains a receipt from the winner of each prize of five hundred dollars or more containing (1) the name, address, and telephone number of the winner, (2) the date of payment, (3) the location of payment, and (4) the member of the organization which paid the winner. Separate books of its bingo operations shall be maintained by a licensed organization. The current price of merchandise prizes donated to a licensed organization shall not be reported as an expense in its records or financial statement of bingo operations. Records, reports, lists, and all postings required by the Nebraska Bingo Act shall be preserved for three years. Any law enforcement agency or other agency of

government shall have the authority to investigate the bingo records of an organization at any time. Organizations shall, upon proper written request, deliver their bingo records to the department, law enforcement agency, or other agency of government for investigation.

Sec. 31. That section 9-259, Revised Statutes Supplement, 1986, be amended to read as follows:

9-259. A licensed organization shall report annually to its membership, on a form supplied by the department, its gross receipts from bingo, the amount spent on prizes, the value of donated prizes, its profits from bingo, and the itemized distribution of those profits. A copy of the organization's annual report, including a breakdown of receipts and expenses, shall be sent to the department. The annual report shall cover the organization's bingo activities from July 1 to June 30 of each year. The annual report shall be submitted to the department with the organization's application for license renewal or on or before August 15 of each year if license renewal is not intended.

Sec. 32. That section 9-261, Revised Statutes Supplement, 1986, be amended to read as follows:

9-261. No expense shall be incurred or amounts paid in connection with the conduct of bingo by a licensed organization, except those reasonably expended for prizes, utilities used during the bingo occasion, security services used during the bingo occasion, bingo license fees, taxes related to bingo, the rental or lease of any structure premises, compensation of any person conducting bingo, any gaming manager, any designated supervising member, and any member designated responsible for the proper utilization of gross receipts, advertising conducted in accordance with section 9-251, and bingo equipment and supplies or such equipment and supplies rented or leased pursuant to the Nebraska Bingo Act. All expenses identified in this section, except those for the awarding of prizes, shall be paid for by a check written from the licensed organization's bingo checking account. A licensed organization may commingle funds received from the conduct of bingo with any general operating funds of the licensed organization, but the burden of proof shall be on the licensed organization to demonstrate that such commingled funds are not used to make any payments associated with the conduct of bingo and are used for a lawful purpose as defined in section 9-211.

Sec. 33. That section 9-262, Revised Statutes Supplement, 1987, be amended to read as follows:

9-262. (1) Except when another penalty is specifically provided, any person, distributor, licensed organization, other licensee, or employee or agent of any person or licensee who violates any provision of the Nebraska Bingo Act shall be guilty of a Class I misdemeanor for the first offense and a Class IV felony for any second or subsequent violation. Any licensed organization guilty of violating any provision of the Nebraska Bingo Act more than once in a twelve-month period shall have its license canceled or revoked.

(2) Each of the following violations of the Nebraska Bingo Act shall be a Class IV felony:

(a) Giving, providing, or offering to give or provide, directly or indirectly, to any public official, employee, or agent of this state, or any agencies or political subdivisions of the state, any compensation or reward or share of the money for property paid or received through gambling activities regulated under Chapter 9 in consideration for obtaining any license, authorization, permission, or privilege to participate in any gaming operation except as authorized by the Nebraska Bingo Act or any rules or regulations adopted and promulgated pursuant to such act;

(b) Employing or possessing any device to facilitate cheating in a bingo game or using any fraudulent scheme or technique in connection with any bingo game when the amount gained through the use of such items, schemes, or techniques results in a person obtaining over five hundred dollars;

(c) Causing, aiding, abetting, or conspiring with another to cause any person or organization to violate any provision of the Nebraska Bingo Act; ~~or~~

(d) Knowingly filing a false report under the Nebraska Bingo Act; or

(e) Knowingly falsifying or making any false entry in any books or records with respect to any transaction connected with the conduct of bingo activity.

(3) In all proceedings initiated in any court or otherwise under the Nebraska Bingo Act, it shall be the duty of the Attorney General and appropriate county attorney to prosecute and defend all such proceedings.

(4) The failure to do any act required by or under the Nebraska Bingo Act shall be deemed an act in part in the principal office of the department. Any prosecution under such act may be conducted in any county where the defendant resides or has a place of business or in any county in which any violation occurred.

(5) In the enforcement and investigation of any offense committed under the Nebraska Bingo Act, the department may call to its aid any sheriff, deputy sheriff, or other peace officer in the state.

Sec. 34. All reports, tax returns, and license applications filed with the department by any licensee or license applicant pursuant to the Nebraska Bingo Act, including any attachments filed in connection with such reports, returns, or applications, shall be deemed public records and shall be available for inspection by the public upon request to the department.

Sec. 35. This act shall become operative on October 1, 1988.

Sec. 36. That original sections 9-201, 9-203, 9-211, 9-212, 9-215, 9-216, 9-218, 9-222, 9-226 to 9-233, 9-236, 9-242 to 9-244, 9-246, 9-247, 9-253, 9-258, 9-259, and 9-261, Revised Statutes Supplement, 1986, and section 9-262, Revised Statutes Supplement, 1987, and also section 9-224, Revised Statutes Supplement, 1986, are repealed.