

## **202 KAR 3:030. Retailers.**

RELATES TO: KRS Chapter 154A

STATUTORY AUTHORITY: KRS 154A.050(1)(d), 154A.400(1)(b)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 154A.400(1) requires the Kentucky Lottery Corporation to develop and maintain a statewide network of lottery retailers that will serve the public convenience to promote the sale of lottery products, while insuring the integrity of the lottery. To govern the selection of lottery retailers, KRS 154A.400(1)(b) requires the Board of Directors of the Kentucky Lottery Corporation to develop a list of objective criteria upon which the selection of lottery retailers shall be based. This administrative regulation lists the objective criteria upon which the selection of lottery retailers shall be based.

### Section 1. Definitions.

- (1) "Applicant" means the individual or entity applying for a license to sell lottery products.
- (2) "Board" means the Board of Directors of the KLC as established by KRS 154A.030(1).
- (3) "Cashing agent" means a retailer who has signed a "Retailer License Agreement Addendum for Cashing Agents" and who is authorized and required to cash lottery products of a value authorized by the KLC, up to and including \$25,000, during KLC's business hours (8:00 a.m. EST to 5:00 p.m. EST).
- (4) "Draw-based product" means:
  - (a) Any KLC ticket or product in which the player may determine if the player has won or lost after the drawing in which the prize was won; or
  - (b) Any other KLC ticket or product generated by the retailer terminal.
- (5) "Draw-based retailer" means a retailer that sells one (1) or more draw-based products.
- (6) "Instant product" means any KLC ticket or product in which the player may determine instantly if the player has won or lost.
- (7) "KLC" means the Kentucky Lottery Corporation.
- (8) "Licensing documents" means the:
  - (a) Application for Retailer License;
  - (b) Retailer License Agreement;
  - (c) Retailer License Agreement Addendum for Cashing Agents; and
  - (d) Retailer License Certificate.
- (9) "Lottery equipment and supplies" means all lottery devices and materials provided to retailers by the KLC or its vendors: terminals, monitors, ticket checkers, communication devices, advertising materials, play slips, play centers, vending machines, ticket stock, and ticket dispensers.
- (10) "Lottery product" means any KLC draw-based product, instant product, or a coupon issued by the KLC for a draw-based or instant product sold or distributed at a retail outlet or directly by the KLC.
- (11) "Owner" means:
  - (a) An individual or sole proprietor;
  - (b) A partner;
  - (c) A member of a limited liability company;
  - (d) An officer;
  - (e) A director; or
  - (f) A shareholder of a corporation, except that, in the case of owners of equity securities of a publicly-traded corporation, only the names and addresses of those known to the corporation to own beneficially five (5) percent or more of the securities.
- (12) "Retailer" is defined by KRS 154A.010(7) and includes the following:

- (a) An individual or sole proprietorship;
  - (b) A limited or general partnership, including a registered limited partnership;
  - (c) A limited liability company;
  - (d) A corporation;
  - (e) A trust;
  - (f) Other entity, business, or enterprise; or
  - (g) The owner of a retailer.
- (13) "Retailer handbook" means the handbook made available to retailers by the KLC, which describes KLC's billing, ticket validation and ordering procedures, payments to retailers, lottery products, and the operation and maintenance of lottery equipment and supplies.
- (14) "Retailer License" means the ability to sell lottery products to the public and is identified through the issuance of a Retailer License Certificate.
- (15) "Retailer License Agreement" means the agreement executed by the retailer and the KLC, setting forth the terms and conditions under which the Retailer License is issued.

Section 2. Conditions of Licensing. As a condition to be licensed to sell lottery products and to act as a retailer, each applicant shall be deemed to have agreed to the following conditions:

- (1) Compliance with law. To fully comply with applicable laws, rules and regulations of the United States, including the Americans with Disabilities Act (ADA) (42 U.S.C. 12101 et seq.), the Commonwealth of Kentucky and its political subdivisions, including KRS Chapter 154A and 202 KAR Chapter 3, and with all policies, procedures, rules, directives, and instructions of the KLC, including applicable licensing documents and the Retailer Handbook, all as may be amended.
- (2) Sale and cashing of lottery products.
- (a) To offer for sale in a manner convenient and accessible to the public, and to actively promote the sale of, in a manner consistent with the directives of the KLC (including the display of KLC point-of-sale materials, signs or other displays,) all lottery products the retailer is authorized to sell, and to abide by all promotional guidelines promulgated by the KLC;
  - (b) To only use ticket stock issued to the specific retail outlet, unless otherwise authorized by the KLC;
  - (c) To cash valid winning lottery products sold or issued by retailer or by another retailer up to the limit set for the retailer by Sections 3(3) and 7 of this administrative regulation, or in an amount as otherwise authorized by the KLC in a manner consistent with the directives of the KLC throughout the retailer's business hours, by making a cash payment, or by issuing a check or money order;
  - (d) To neither charge nor ask for a fee, tip, tax, or anything of value for cashing a lottery product or for cashing a check or money order issued by retailer's retail outlet for payment of a prize;
  - (e) Upon request by a lottery player and when the lottery product is validated, to provide a lottery player with a copy of the validation slip for the lottery product presented; and
  - (f) To accept all valid coupons issued by the KLC and give the bearer of the coupons lottery products or merchandise in accordance with the terms of the lottery coupons.
- (3) Training of retailer personnel. To require its employees to attend all training sessions and review training materials offered by the KLC or its vendors, as needed, to effectively perform its responsibilities as a KLC retailer.
- (4) Accounting records. To maintain for the prior and current fiscal year (July 1 through June 30) current, accurate, and detailed accounting records of every operation and transaction relating to the sale, cashing, or maintenance of lottery products in

conformance with the directives of the KLC, and as otherwise required by law. The records shall be made available to KLC representatives or agents, the Commonwealth of Kentucky's Auditor of Public Accounts, and to any other person as otherwise required by law.

### Section 3. Licensing.

#### (1) In general.

(a) An applicant for a Retailer License shall complete, sign, and submit:

1. An application for Retailer License, including an acknowledgement that the KLC may conduct the criminal, financial, and other background investigations required by Section 5 of this administrative regulation at any time during any term of the Retailer License Agreement with or without notice to the retailer;

2. A Retailer License Agreement; and

3. If a cashing agent, a Retailer License Agreement Addendum for Cashing Agents.

(b) Upon submission of an application for Retailer License, an applicant shall tender a \$250 fee, which shall be nonrefundable, except as provided in Section 5(5)(a)2 and (b)3 of this administrative regulation.

(c) There shall be a \$100 fee per new retail outlet for an existing chain retailer.

(d) Criminal, financial, and other background investigations shall be conducted in accordance with Section 5 of this administrative regulation for the applicant and each owner of the applicant. If the KLC determines that the applicant or an owner of the applicant does not meet the criteria established in KRS Chapter 154A and in this administrative regulation for the issuance of a Retailer License, the applicant shall be notified in writing, and the Retailer License shall be denied.

(e) Upon satisfactory completion of the criminal, financial, and other background investigations pursuant to paragraph (d) of this subsection, the KLC may:

1. Sign a Retailer License Agreement with the successful applicant; and

2. Issue a Retailer License Certificate for the successful applicant.

(f) Unless earlier terminated by the terms of the Retailer License Agreement in accordance with KRS Chapter 154A or Section 9 of this administrative regulation, the Retailer License Agreement shall be in effect for an initial one (1) year term from the date it is signed by the KLC. At the end of the initial one (1) year term, the Retailer License Agreement shall automatically renew for additional successive one (1) year terms, not to exceed four (4) years from the date the Retailer License Agreement was signed by the KLC. At the expiration of the four (4) years, unless the Retailer License Agreement was earlier terminated, the retailer shall seek relicensing pursuant to subsection (4) of this section.

(2) Special rules relating to chain retailers. More than one (1) retail outlet with identical owners may be treated as one (1) chain retailer. Each retail outlet shall be issued a separate retailer number and a Retailer License. The KLC may issue one (1) billing statement for all retail outlets or separate billing statements for each retail outlet. If the chain retailer wishes to add a new retail outlet, the chain retailer shall not be required to undergo a new background investigation.

(3) Special rules relating to cashing agents.

(a) The KLC may designate one (1) or more retailers as cashing agents. A cashing agent shall sign a Retailer License Agreement Addendum for Cashing Agents for cashing lottery products of a value up to an amount authorized by the KLC, not to exceed \$25,000. If internet is available and if the KLC determines internet is necessary and in the best interest of the KLC to complete the claim process, the retailer may be required to maintain internet access during KLC's business hours.

(b) All cashing agents shall:

1. During the KLC's business hours, cash validated winning lottery products by making a cash payment, or by issuing a check or money order;
2. Follow all KLC practices and procedures; and
3. Take all reasonable steps necessary to protect a player's private information, including address, telephone number, Social Security number, and birth date from public disclosure or any disclosure beyond that which is necessary for awarding the prize to the player. If any private information is disclosed, the KLC shall be immediately notified.

(c) The KLC may terminate a retailer's status as a cashing agent with or without revocation of the retailer's Retailer License.

(4) Relicensing.

(a) At least ninety (90) days prior to the expiration of the Retailer License Agreement as established in subsection (1)(f) of this section, each retailer shall seek relicensing by completing the application process in subsection (1) of this section, except the retailer shall not be required to tender the fees required by subsection (1)(b) and (c) of this section. If the retailer is a cashing agent, the retailer shall also complete the process in subsection (3) of this section.

(b) If a retailer continues to sell lottery products beyond the term of the Retailer License Agreement, the retailer shall continue to be liable to the KLC for all products sold.

(5) Change in Information. A retailer shall promptly notify the KLC of a change in information previously given to the KLC. For a complete or partial change in ownership, the retailer shall comply with Section 4 of this administrative regulation.

Section 4. Rules for Change in Ownership.

(1) Special rules relating to transfer of ownership of existing retailers.

(a) A Retailer License shall not be sold, transferred, assigned, pledged, or otherwise conveyed.

(b) A retailer shall give thirty (30) days prior written notice to the KLC of its intent to vacate or convey its retail outlet or business, change its location, or change the form of the business of the retailer. Retailer acknowledges that a complete change in ownership shall be accomplished by tendering to the KLC:

1. An application for Retailer License;
2. A Retailer License Agreement;
3. If a cashing agent, a Retailer License Agreement Addendum for Cashing Agents;
4. The fees required by Section 3(1)(b) and (c) of this administrative regulation; and
5. Proof of conveyance documentation acceptable to the KLC.

(c) The KLC may, for a period not to exceed sixty (60) days, temporarily license an owner or applicant who has acquired the retail outlet or business of an existing retailer, so that the sale of lottery products will not be interrupted during the application process. The temporary licensing of an owner or applicant to sell lottery products shall not limit the KLC's right to exercise its discretion regarding issuance of a Retailer License to the owner or applicant. If the retail outlet or business of a retailer is conveyed and the sale of lottery products continues without issuance of a temporary or new Retailer License to the acquiring owner, the conveying retailer and the acquiring owner shall be jointly and severally liable for all debts and other obligations incurred to the KLC prior to and after the conveyance, and shall remain liable for all debts and other obligations until paid.

(d) In addition to other grounds for denial of a Retailer License or termination of a Retailer License Agreement, the KLC may deny issuance of a Retailer License to an owner or applicant acquiring or seeking to acquire the retail outlet or business of a

retailer, until all debts and other obligations of the conveying retailer to the KLC are paid in full.

(2) Special rules relating to a partial change in ownership of a retailer.

(a) To the extent possible, retailers shall provide the KLC with thirty (30) days prior written notice of any partial change in owners, and in any event, shall provide the KLC with written notice within fifteen (15) days after any partial change in owners. Failure to do so may result in termination of the retailer's Retailer License. Written notice of a partial change shall be accomplished by tendering to the KLC a new application for Retailer License and a fee in the amount of fifty (50) dollars.

(b) The KLC shall conduct background and financial investigations of and make inquiries of the Kentucky Revenue Cabinet regarding a new owner of retailers in accordance with Section 5 of this administrative regulation.

Section 5. Requirements and selection criteria for applicants, retailers, and owners.

(1) Criminal and other background investigations. The KLC may investigate, at any time and during any license term, the criminal and other background history of, and existence of any statutory or regulatory violations by, an applicant, an owner, a retailer seeking relicensing, a retailer seeking licensing due to a complete change in ownership, or a retailer reporting a partial change in ownership.

(a) The KLC may, unless required by statute, deny the application of an applicant, and suspend or revoke the license of an existing retailer:

1. For any reason established in KRS 154A.400 for denying the issuance of a Retailer License;
2. For any reason established in KRS 154A.410(1) for terminating an existing Retailer License Agreement;
3. If the applicant, owner, or retailer has been convicted of any offense that relates to or may adversely impact the security or integrity of, or public confidence in, the KLC or its retailers. The KLC shall consider:
  - a. The physical and fiscal security of the KLC and its retailers and the integrity of the KLC's games;
  - b. Public perception of and public confidence in the KLC and its retailers; and
  - c. Other relevant factors;
4. If an applicant, owner, or retailer has been found by the Chief Financial Officer or his designee to have made a statement of material fact to the KLC while the person was serving as a previous owner or related entity, and the person knew or should have known that the statement was false or untrue in any respect, unless at least ten (10) years have passed since the statement was made;
5. If an applicant, owner, or retailer has been found by the Chief Financial Officer or his designee to have provided false or misleading information, or failed to provide material information the failure of which to provide is false or misleading, to the KLC or to a law enforcement agency with respect to obtaining or retaining a Retailer License;
6. If an applicant, owner, or retailer provides products, services, or entertainment that may have an adverse effect upon the credibility, integrity, and reputation of the KLC;
7. If an applicant, owner, or retailer sells products, services, or entertainment that constitutes products or services deceptively similar to or in competition with the KLC's products or services; or
8. If an applicant, owner, or retailer does not demonstrate the ability to sell and continue to sell an acceptable level of lottery products.

(b) The KLC may permit the applicant or retailer a period of time, not to exceed thirty (30) days, to remove the person as owner or to correct the situation resulting in an

unsatisfactory criminal, financial, or other background check.

(c) If an existing retailer is requesting a relicensing, seeking to open a new retail outlet, or is an entity related to an existing retailer, or who shares one (1) or more owners with an existing retailer, and facts are disclosed that would cause the KLC to deny an application for licensing or a relicensing if tendered by the existing retailer, the KLC may:

1. Immediately revoke or suspend all existing Retailer Licenses of the retailer in accordance with KRS Chapter 154A; or
2. Notify all the retailers that their licenses will be revoked within thirty (30) days if the conditions justifying revocation are not corrected.

(2) Financial investigations.

(a) The KLC shall conduct a financial investigation of each applicant applying for a Retailer License, and of each retailer under consideration for licensing due to a change of ownership. In addition to information available from other sources, the KLC shall maintain, and shall review during each financial investigation, a database regarding existing, suspended, and canceled retailers and their owners. The KLC may consider in its determination regarding the financial responsibility of an applicant or retailer undergoing relicensing, the connection of the owner or related entity with any retailer whose Retailer License was suspended or canceled due to a default in its obligations to the KLC.

(b) If, as a result of financial investigation of the applicant or retailer and its owners, the KLC determines that a prospective or existing retailer poses a financial risk, the KLC may:

1. Deny the application or revoke the Retailer License in accordance with KRS 154A.410(2); or
2. License an applicant or permit an existing retailer to retain its Retailer License upon receipt of the letters of credit, bonds, personal guaranty agreements, or other security or assurances of payment as the KLC may deem satisfactory, in an amount based upon actual or potential sales.

(3) Kentucky Department of Revenue inquiries.

(a) Except as provided in Section 4(1)(c) of this administrative regulation, a Retailer License shall not be issued to an applicant which is not, or has an owner which is not, and a retailer shall not be permitted to retain a Retailer License which is not, or has an owner which is not, current in the payment of taxes, interest and penalties owed to, and current in filing of applicable tax returns with, the Commonwealth of Kentucky.

(b) A Retailer License shall not be issued to an applicant which has not previously been issued a federal employment tax identification number, or if the applicant is an individual, a Social Security number, and, if applicable, a Kentucky sales tax license number. The KLC shall confirm with the Kentucky Department of Revenue that an applicant for a Retailer License, and an existing retailer seeking relicensing, complies with this paragraph. The KLC shall rely upon information received from the Kentucky Department of Revenue. The KLC may permit an existing retailer a period of time not to exceed thirty (30) days within which to meet or cause the owner in question to meet its obligations with the Kentucky Department of Revenue prior to revocation of the retailer's Retailer License or prior to final denial of issuance of a relicensing of the Retailer License.

(4) Kentucky Secretary of State Inquiries. An applicant shall be registered and in good standing with the Kentucky Secretary of State if the applicant is a corporation or limited liability company.

(5) Selection criteria.

(a) In order to sell draw-based products, an applicant shall meet the following criteria:

1. Whether, based on historic traffic patterns in the geographic area of the proposed retail outlet, the applicant is likely to have sales equal to or in excess of \$100 per week in draw-based product; and
  2. If the KLC determines that the applicant is not likely to have the expected draw-based product sales, the KLC may deny the applicant's application for a Retailer License and refund any license fee previously paid by the applicant.
- (b) In order to sell instant products, an applicant shall meet the following criteria:
1. Whether, based on historic traffic patterns in the geographic area of the proposed retail outlet, the applicant is likely to have sales equal to or in excess of \$300 per week in draw-based and instant products;
  2. Whether the applicant will agree to and has the physical space to carry a minimum of six (6) unique instant products at its retail outlet at all times; and
  3. If the KLC determines that the applicant is not likely to have the expected draw-based and instant product sales, the KLC may deny the applicant's application for a Retailer License and refund any license fee previously paid by the applicant.
- (c) Retailers shall sell both draw-based products and instant products unless specifically authorized by the KLC to sell one (1) or more draw-based products only based on the retailer's type of business.
- (6) Storage of unsold products. A retailer shall store unsold lottery products and ticket stock in a safe and secure place to minimize the risk of loss, theft, damage, or destruction. The KLC may inspect, and require alteration or relocation of, the storage place.
- (7) Reasonable access to lottery products, equipment, and supplies. A retailer shall provide the KLC with reasonable access to lottery products, equipment, and supplies upon reasonable notice.
- (8) Game end dates. A retailer shall adhere to the KLC's directives and policies on game end dates and return dates for lottery products. A retailer shall adhere to the KLC's directives on return of unsold lottery products upon the announcement of game end dates.
- (9) Loss, destruction, or theft of lottery products, equipment, or supplies.
- (a) A retailer shall promptly report to the Security Division of the KLC and to the appropriate local law enforcement agency, a loss, destruction, or theft of lottery products, equipment, or supplies and cooperate, and cause its employees to cooperate, fully with the investigations of the KLC's Security Division and law enforcement officials.
  - (b) The retailer shall be liable to the KLC for payment in full for all lottery products allegedly lost, destroyed, or stolen after activation of the relevant pack of products.
  - (c) Retailers shall receive reimbursement for activated products stolen during a robbery or burglary, if the Security Division and law enforcement each receive accurate game, pack, and ticket number ranges in a timely manner, followed-up by a copy of the police offense report submitted to the Security Division within ten (10) business days.
- (10) Security Inspection and Investigations. The KLC Security Division may inspect the retail outlet to ensure that lottery products, equipment, and supplies are maintained in an environment that will minimize the risk of loss, theft, damage, or destruction. The KLC may require alteration of the environment or relocation of lottery products, equipment, or supplies if a security risk is evident. The retailer shall cooperate, and cause its employees to cooperate, fully with all investigations of the KLC's Security Division and law enforcement officials.

#### Section 6. Lottery equipment and supplies.

- (1) Criteria for allocation of lottery equipment and supplies.
  - (a) Installation and retention of lottery equipment and supplies at a retail outlet shall be determined by the KLC, based upon the following criteria, as appropriate:

1. The probable future or actual historic sales at the retail outlet relative to the installation costs of any lottery equipment and supplies and ongoing communications charges associated with any lottery equipment and supplies;
  2. The retailer's and the retailer's owners' and related entities' history with the KLC;
  3. The number of games carried by the retailer; and
  4. The retailer's retail outlet, including business, location, size, and hours.
- (b) In calculating the probable future or actual historic sales, the KLC shall consider:
1. Actual historic sales of the lottery products sought to be sold by similarly situated retailers; and
  2. Total actual historic sales by the retailer in question.
- (c) The KLC may establish initial fees and periodic charges with respect to installation or maintenance of lottery equipment and supplies.
- (2) Title, placement, and removal of lottery equipment and supplies.
- (a) Lottery equipment and supplies provided to retailers are and shall remain the property of the KLC or its vendors, and shall not be or become property of a retailer or person claiming an interest in lottery equipment and supplies through a retailer including, without limitation, the holder of any lien.
- (b) Before placement of lottery equipment and supplies within a retailer's retail outlet, the retailer shall obtain KLC approval of the proposed location for the lottery equipment and supplies. The retailer shall not move, modify, or alter the equipment or supplies.
- (c) The KLC shall have the right to enter a then-present or former retail outlet, during normal business hours, or at any other time with the consent of the holder of any interest in the real property on which the retail outlet is situated, to remove lottery products, equipment, and supplies.

#### Section 7. Prize Payments.

- (1) Prize payments up to and including \$600. During its business hours, a retailer shall pay the nonminor holder of a validated winning lottery product the amount of the prize to which the winner is entitled, up to and including the sum of \$600, by making a cash payment, or by issuing a check or money order.
- (2) Prize payments up to \$25,000. The KLC may establish a network of cashing agents. During the KLC's business hours, authorized cashing agents shall pay the nonminor holder of a validated winning lottery product the amount of the prize to which the winner is entitled, up to and including any sum that the KLC has authorized the cashing agent to pay, not to exceed the sum of \$25,000, by making a cash payment, or by issuing a check or money order.

#### Section 8. Retailer Accounting.

- (1) Lottery product purchases, billings, and payment. The KLC shall make available to all retailers detailed accounting procedures regarding purchases of and billings for lottery products, which procedures shall be deemed to be a part of the Retailer License Agreement. The KLC may establish payment terms with individual retailers to address situations unique to those retailers. All proceeds from the sale of lottery products shall be deposited not later than the close of the next banking day after the date of their collection by the retailer and shall be held in an account designated, in writing, by the retailer to the KLC in the application for Retailer License. The account shall be in an institution insured by the Federal Deposit Insurance Corporation or Federal Savings and Loan Insurance Corporation, or their successors. All proceeds of the sale of lottery products, net of credits for compensation due to retailers and for prizes paid by retailers, are the property of the KLC and shall be held by retailers in trust and in a fiduciary capacity for the benefit of the KLC.



(2) Credits. Retailers' accounts with the KLC shall be credited by the KLC in accordance with its retailer compensation policies, as established by the KLC pursuant to KRS 154A.050(1)(d)8.

(3) Delinquent accounts. In addition to all other rights and remedies available to the KLC at law or in equity, including the rights and remedies provided in KRS Chapter 154A, the KLC shall have the following rights and remedies:

- (a) The right to set off against and recoup from sums due by the KLC to a delinquent retailer or owner any sums due the KLC by the delinquent retailer or owner, or by any other retailer in which the delinquent retailer or owner is an owner;
- (b) The right to request the Commonwealth of Kentucky to set off against and recoup from sums due any delinquent retailer, owner, or other retailer which is in part owned by an owner of the delinquent retailer by the Kentucky Department of Revenue, any sums due to the KLC by the delinquent retailer;
- (c) The right to require payment of all sums due the KLC by a retailer prior to issuance of a Retailer License to a new retailer at the same retail outlet; and
- (d) The right to write off a retailer's obligations to the KLC, without releasing any retailer from its obligations for repayment of sums owed the KLC, and reimburse its operating accounts in the amount of the write-off from a segregated account that may be established from all licensing fees received by the KLC, including any additional sums authorized for that purpose by the board. The board may increase or reduce the amount held in the segregated account.

#### Section 9. Termination or Suspension.

(1) Termination for cause. Unless required by statute, the KLC may terminate or suspend a retailer's Retailer License and Retailer License Agreement at any time, for good cause, upon a finding that:

- (a) The retailer or an owner has committed any act or omission established in KRS 154A.410(1) for termination of a Retailer License Agreement;
- (b) The retailer or an owner has committed any act or omission that would prevent the issuance of a Retailer License for any reason in this administrative regulation;
- (c) The retailer or an owner has committed a material breach of any provision of its Retailer License Agreement with the KLC;
- (d) The retailer or an owner has provided false or misleading information in obtaining or attempting to obtain a Retailer License and Retailer License Agreement;
- (e) The retailer or an owner been convicted of, or has entered a plea of guilty or nolo contendere, regardless of adjudication, to an offense punishable as a felony, or to any gambling-related offense, unless the time established in KRS 154A.400(1)(b)(3) has expired;
- (f) The retailer or an owner has outstanding tax delinquencies owed to the federal government or any taxing authority within the Commonwealth of Kentucky;
- (g) The retailer or an owner has jeopardized the integrity, security or efficient operation of the KLC;
- (h) The ownership or location of the business has changed without providing prior notice to the KLC as provided in this administrative regulation;
- (i) The retailer has failed to accurately account for lottery tickets, revenues, or prizes as required by the KLC;
- (j) The retailer has failed to remit or is delinquent in remitting money owed to the KLC;
- (k) The retailer or owner has committed any fraud, deceit, or misrepresentation to the KLC or to any individual purchasing a lottery ticket or tickets from retailer;
- (l) The retailer has sold a lottery ticket or paid a prize to any person under eighteen (18) years of age;

- (m) The retailer has sold a lottery ticket at any place other than the place authorized in its Retailer License;
- (n) If required by statute, the retailer has not prominently displayed its Retailer License Certificate at the approved sales location;
- (o) The retailer has not prominently displayed and maintained ticket displays/dispensers and points-of sale materials provided by the Lottery;
- (p) The retailer has not made point-of-sale information for lottery products accessible to the public;
- (q) The retailer has sold tickets at a price other than established by the KLC;
- (r) The retailer or an owner has committed a material violation of any rule or administrative regulation promulgated by the KLC;
- (s) The retailer has violated any directive or instruction issued by the KLC;
- (t) The retailer or an owner has committed a material violation of KRS Chapter 154A;
- (u) The retailer's reputation is no longer consistent with the protection of the public interest;
- (v) The retailer has materially changed any factor considered by the KLC in selecting the retailer;
- (w) The retailer or an owner has engaged in conduct prejudicial to public confidence in the lottery;
- (x) The retailer has charged a fee or tip to redeem a lottery ticket or has required a customer to purchase another item in order to purchase a lottery ticket;
- (y) The retailer has paid a prize valued greater than the retailer is authorized to cash by the KLC, or the retailer has refused to cash a winning lottery prize, properly validated, up to the amount authorized by the KLC; or
- (z) The retailer has insufficient sales of lottery products.

(2) Termination without cause. The KLC may terminate a retailer's Retailer License and Retailer License Agreement without cause, upon thirty (30) days prior written notice.

(3) Termination by retailer. A retailer may terminate its Retailer License and Retailer License Agreement upon thirty (30) days prior written notice. The KLC may, at its option, elect to terminate the retailer's Retailer License and Retailer License Agreement prior to the end of the thirty (30) day period.

(4) Effect of termination or suspension. If a retailer possesses multiple retail outlets, suspension or termination of one (1) outlet is grounds for suspension or termination of the others. Every obligation of a retailer to the KLC shall survive termination or suspension of the Retailer License and Retailer License Agreement. Upon termination or suspension of a Retailer License and Retailer License Agreement, the retailer shall immediately pay to the KLC all sums owed to the KLC and shall surrender to the KLC the retailer's Retailer License Certificate and all lottery products, equipment and supplies.

(5) Other remedies. In addition to the remedies of termination or suspension, the KLC may avail itself of any other remedies available to it at law or in equity, including, without limitation, injunctive relief.

#### Section 10. Retailer Remedies.

(1) Right to protest. An applicant for a Retailer License or a retailer aggrieved in connection with an action taken by the KLC pursuant to KRS Chapter 154A or this administrative regulation may protest, in writing, to the president of the KLC. The protest shall be submitted within thirty (30) calendar days after the aggrieved applicant or retailer knows or should have known of the facts giving rise to the protest. An applicant or retailer shall be deemed to have knowledge of the facts giving rise to the protest within thirty (30) days of the KLC's issuance of a written notification to the retailer or applicant for a Retailer License regarding the action or decision of the KLC.

(2) Effect of protest. If a timely protest is filed under this section and the action protested is the termination of a Retailer License, the Retailer License shall be temporarily suspended rather than terminated until all administrative and judicial remedies have been exhausted. In all other circumstances, the KLC's action or decision shall stand unless and until reversed or revised as a result of the protest.

(3) Action by President and Right to Appeal. The decision of the president shall be promptly issued in writing and shall be immediately furnished to the protesting person by hand-delivery, telecopier (with a hard copy sent by certified mail, return receipt requested,) certified mail (return receipt requested), or by appropriate electronic means. A notice shall be deemed received on the date hand-delivered or sent by telecopier, three (3) business days after deposit of the notice in the United States Mail, postage prepaid, if sent by certified mail, return receipt requested and upon receipt, if sent electronically. The decision shall recite the grounds relied upon by the president in reaching the decision and shall inform the protesting party of its further appellate rights under subsections (4) and (5) of this section. The president's decision shall be final and conclusive, unless within ten (10) calendar days from the date of receipt of the decision, the protesting party delivers a written appeal to the board, by hand, by telecopier (with a hard copy sent by certified mail, return receipt requested) or by certified mail, return receipt requested, all pursuant to KRS Chapter 154. The address is: Board of Directors, Kentucky Lottery Corporation, 1011 West Main Street, Louisville, Kentucky 40202, Telecopier No. (502) 560-1532.

(4) Board appeal.

(a) After receipt of an appeal, the board shall schedule a hearing for the protesting party which shall be scheduled as soon as practicable; and

1. The hearing shall be conducted in accordance with KRS Chapter 13B; or

2. The chairman of the board may determine that the hearing will be conducted by a hearing officer. The chairman shall determine whether the hearing officer will conduct the hearing in the presence of a quorum of the board, who renders a decision without the recommended order of the hearing officer, or whether the hearing officer will conduct the hearing outside of the presence of the board and will complete and submit to the board a written recommended order, which shall include findings of fact, conclusions of law, and recommended disposition, as provided in KRS 13B.110. The decision of the board shall be made by a majority of the board members present at the meeting in which the appeal is decided.

(b) The decision of the board shall be final unless the decision is appealed as provided by subsection (5) of this section and other applicable law.

(5) Access to state courts. A person aggrieved by a decision of the board under this section may appeal the decision, within thirty (30) calendar days of its date of issuance, to a court of competent jurisdiction, in accordance with KRS Chapter 154A.

Section 11. Sales of Lottery Products by KLC. Nothing in 202 KAR Chapter 3, licensing documents, or any other document shall limit the right of the KLC to sell lottery products directly to the public, in person, electronically, by mail, by subscription, or otherwise.

Section 12. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Application for Retailer License", 12/8/17;

(b) "Retailer License Agreement", 12/8/17;

(c) "Retailer License Agreement Addendum for Cashing Agents", 12/8/17; and

(d) "Retailer License Certificate", 12/8/17.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Kentucky Lottery Corporation, 1011 West Main Street, Louisville, Kentucky 40202-2623, Monday through Friday, 8:00 a.m. through 5:00 p.m. EST.

(25 Ky.R. 584; 834; eff. 10-12-1998; 28 Ky.R. 1682; 2195; eff. 4-15-2002; 44 Ky.R. 1728; 1976; eff. 4-6-2018.)