



## **Revised Statement of Basis, Purpose, and Specific Statutory Authority**

### **Office of the Secretary of State Rules Concerning Bingo and Raffles Games 8 CCR 1505-2**

**January 10, 2012**

#### **I. Basis and Purpose**

This statement is about amendments to the Colorado Secretary of State rules concerning bingo and raffles games. The Secretary of State intends to adopt amendments necessary to ensure uniform and proper administration, implementation, and enforcement of Colorado bingo and raffles laws.<sup>1</sup> The Secretary of State will also adopt revisions intended to improve the administration of bingo and raffles games in Colorado and to answer questions arising under State bingo-raffle laws. In addition to amendments proposed by the Secretary of State, this office is considering recommendations submitted by members of the Colorado Bingo-Raffle Advisory Board and bingo-raffle stakeholders as follows:

1. During the June 27, 2012 board meeting, the Colorado Bingo-Raffle Advisory Board proposed the following:
  - Amendments to Rule 6.4.2 (formerly Rule 7.0.B.2) to increase the maximum number of allowable faces on an electronic bingo aid device from 36 to 54. Corresponding amendments to Rule 14.1.1(d) (formerly Rule 15.0.A.1.d) will ensure consistency with this change.
2. On August 22, 2012, Gwen Chermack, the NRA-Colorado Field Representative, submitted to the Secretary of State the following recommendations on behalf of Colorado Friends of NRA:
  - Amendments to Rule 8.1.4 (formerly Rule 9.0.A.4) change the threshold for special raffle requirements. The current rule states that licensees must comply with special requirements if the total value of all raffle prizes exceeds \$1,000; the revised rule changes the criteria to a value \$1,000 or greater for any one raffle prize.

The Secretary of State is concerned with the recommended change to special raffle ticket requirements because these revisions may severely compromise public faith in large raffles by curbing the Secretary of State's ability to regulate, and could lead to an increase in fraudulent raffles.

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<sup>1</sup> Article XVIII, Section 2 of the Colorado Constitution and Article 9, Title 12 of the Colorado Revised Statutes.

3. On October 10, 2012, Dan Gincig, Chairman of the Colorado Bingo-Raffle Advisory Board, submitted to the Secretary of State the following recommendations:
  - Amendments to Rule 3.1.10 (formerly Rule 4.0.A.9) to increase the maximum allowable number of bingo occasions per calendar year from 220 to 370.
  - Amendments to Rule 9.1 (formerly Rule 10.0.A) to increase the maximum aggregate bingo occasion prize from \$2,000 to \$5,000.

The Secretary of State has some reservations about changes to Rule 3.1.10, which would increase the maximum number of allowable bingo occasions. Opinions expressed by Advisory Board members and other bingo-affle licensees in past rulemaking processes shows concern that this change would harm small organizations' ability to compete with larger organizations whose membership base allows them to run more occasions. In addition, very few licensees reach the current maximum number of annual occasions, calling into question the need for the rule change. Stakeholder input during the formal rulemaking hearing process will be key in determining the viability and appropriateness of this revision.

The Secretary of State has similar concerns about changes to Rule 9.1, which would increase the maximum allowable aggregate bingo occasion prize. During the 2006 rulemaking session, the bingo-affle community demonstrated strong opposition to raising the prize limit, arguing that increased limits put small organizations at a distinct disadvantage against larger licensees. There is no strong evidence to show that this has changed, but the Secretary of State will look forward to further stakeholder input on the issue.

4. In addition, the Secretary of State proposes the following rules revisions:
  - Rule 1.0 is repealed.
  - Amendments to Rule 1 (formerly Rule 2.0) clarify, establish, and eliminate definitions:
    - Current Rule 2.0.A, which contains substantive information concerning the start and end of a bingo game, is relocated to new Rule 3.1.1.
    - Amendments to Rule 1.2 (formerly Rule 2.0.C) remove substantive language concerning the display of merchandise prizes from the definition of bucket raffle. This language is relocated to Rule 8.3.3 (formerly Rule 9.0.E.3).
    - New Rule 1.3 defines "Call Fulfillment Center."
    - Current Rule 2.0.E is repealed because the term "Deal" is already defined in section 12-9-102(2.7), C.R.S.
    - New Rule 1.9 defines "Licensee" as used in the bingo and raffle games rules. This definition allows for more concise rules by eliminating the use of the term "bingo-affle" when referring to organizations that hold a bingo-affle license.
    - Amendments to Rule 1.17 (formerly Rule 2.0.Q) remove language repeated in Rule 5.2 (formerly Rule 6.0.B).

- Current Rule 2.0.R is repealed because the term “Sheet” is already defined in section 12-9-102(20.1), C.R.S.
- Revisions to Rule 2.1.2 (formerly Rule 3.0.A.2) clarifies requirements for renewal bingo-raffle license applications.
- New Rule 2.3.2 clarifies that a games manager must be present during all charitable gaming activities, and for at least 30 minutes after activities end.
- Amendments to Rule 2.4.3(a) (formerly Rule 3.0.B.3.a) clarify that bingo occasion rules must not be in conflict with Colorado bingo-raffle statute or rules.
- Revisions to Rule 2.4.4 (formerly Rule 3.0.B.4) clarify posting requirements for cash and merchandise prizes at bingo occasions.
- New Rule 3.1.11 prohibits the saving of seats or playing spaces for players with the exception of reserving a seat to provide a reasonable accommodation for a player with a disability.
- New Rule 3.2.3(e) allows licensees to set self-imposed progressive jackpot maximums and provides guidelines for this allowance.
- New Rule 3.2.9 clarifies language from former Rule 4.0.B.1.i that licensees must not change the percentage amount added to a progressive jackpot, or the timing of when the amount is added.
- Amendments to Rule 4.1.1(a)(2) (formerly Rule 5.0.A.1) clarify that bingo-raffle proceeds may not be commingled with funds in other accounts.
- New Rule 5.1.10(c) allows licensees to maintain a separate cash fund in a bar or clubroom. The cash fund may not exceed \$2,000.
- Amendments to Rule 5.4.6 (formerly Rule 6.0.D.7) clarify the procedures for awarding a progressive pull tab prize when it reaches the \$5000 maximum.
- New Rule 6.1.3 amends and relocates former rule 7.0.A.4 to clarify that a licensee may use a bingo aid computer system at any time, and must use a bingo aid computer system if the licensee allows electronic bingo aid devices during a bingo occasion.
- Amendments to Rule 6.3.2(c) (formerly Rule 7.0.A.6.c) clarifies that an appointed games manager or officer is responsible for controlling the means of access to a bingo aid computer system.
- Amendments to Rule 7.1 (formerly Rule 8.0.A) clarify that a licensee must allow promotion participants to be present at the promotional drawing without paying any applicable entry fees. Revisions to reporting requirements clarify that licensees need only report the information stipulated in section 12-9-102.5(4)(a), C.R.S.
- Amendments to Rule 8.1.1(a) (formerly Rule 9.0.A.1.a) clarify that licensee members may not sell raffle tickets at any time that they are receiving compensation for performing regular duties for the licensee.
- New Rule 8.1.1(e) allows licensees to establish a contract with a call fulfillment center in order to process raffle ticket orders, and outlines requirements for licensees that utilize these services.

- Amendments to Rule 8.1.4(c) (formerly Rule 9.0.A.4.c) revise requirements for collecting raffle participant information in the case of large raffle prizes.
- New Rule 8.1.5 clarifies general requirements for requiring presence at a raffle drawing to win a prize.
- New Rule 10.3.5 allows the use of a call fulfillment center as an allowable expense.
- Revisions to Rule 10.3.6 (formerly Rule 11.0.C.5) limit the Secretary of State's authority to request proof of the nature of legal advice paid for with bingo-raffle funds.
- New Rule 13.1.4 clarifies that software manufacturers who produce charitable gaming software must hold a manufacturer's license and comply with all Colorado bingo-raffle statutes and rules.
- New Rule 15.5.4 clarifies the Secretary of State's authority to refer violations to a law enforcement agency.
- Other changes to rules not specifically listed are entirely non-substantive. Some words and phrases are changed to simplify or clarify, but the meaning is not intended to be altered unless as described above. Cross-references in rules are also corrected or updated. Renumbering the rules is necessary for consistency with Department rulemaking format/style.

## **II. Rulemaking Authority**

The statutory and constitutional authority is as follows:

1. Section 12-9-103(1)(b), C.R.S., (2012), which authorizes the Secretary of State “[t]o supervise the administration and enforcement of this article, and in consultation with the board, to adopt, amend, and repeal rules governing the holding, operating, and conducting of games of chance...”.
2. Section 12-9-107(13)(a), C.R.S., (2012), which authorizes the Secretary of State to “establish by rule the method of play and amount of prizes that may be awarded...”
3. Section 12-9-107(28)(c), C.R.S., (2012), which authorizes the Secretary of State to establish by rule the maximum number of bingo cards that a player can use with an electronic bingo aid device.
4. Section 12-9-202(2)(a)-(c), C.R.S., (2012), which requires the Colorado Bingo-raffle Advisory Board to offer advice for rules regarding the types of charitable games to be conducted, the rules for those games, the number of occasions per year, and the licensing requirements of all types of licenses required for the conduct of charitable gaming to the Secretary of State.