

## **Chapter 18C.**

### **North Carolina State Lottery.**

#### Article 1.

#### General Provisions and Definitions.

##### **§ 18C-101. Citation.**

This Chapter shall be known and may be cited as the North Carolina State Lottery Act. (2005-344, s. 1.)

##### **§ 18C-102. Purpose and intent.**

The General Assembly declares that the purpose of this Chapter is to establish a State-operated lottery to generate funds for the public purposes described in this Chapter. (2005-344, s. 1; 2005-276, s. 31.1(b).)

##### **§ 18C-103. Definitions.**

As used in this Chapter, unless the context requires otherwise:

- (1) "Commission" means the North Carolina State Lottery Commission.
- (2) "Commissioner" means a member of the Commission.
- (3) "Director" means the person selected by the Commission to be the chief administrator of the North Carolina State Lottery.
- (4) "Game" or "lottery game" means any procedure or amusement authorized by the Commission where prizes are distributed among persons who have paid, or unconditionally agreed to pay, for tickets or shares that provide the opportunity to win those prizes and does not utilize a video gaming machine as defined in G.S. 14-306.1(c).
- (5) "Lottery" means any lottery game or series of games established and operated pursuant to this Chapter.
- (6) "Lottery contractor" means a person other than a lottery retailer with whom the Commission has contracted for the purpose of providing goods or services to the Commission on an ongoing basis.
- (6a) "Lottery supplier" means a person, other than a lottery retailer, with whom the Commission has contracted for the purpose of providing goods or services to the Commission for an individual purchase which may include a maintenance program.
- (7) "Person" means any natural person or corporation, limited liability company, trust, association, partnership, joint venture, subsidiary, or other business entity.
- (7a) "Potential contractor" or "lottery potential contractor" means any person other than a lottery retailer who submits a bid, proposal, or offer to procure a contract for goods or services for the Commission on an ongoing basis.
- (8) "Retailer", "lottery retailer", or "lottery game retailer" means a person with whom the Commission has contracted to sell tickets or shares in lottery games.
- (9) "Share" means any method of participation in a lottery game, other than by a ticket purchased on an equivalent basis with a ticket.

- (10) "Ticket" means any tangible evidence authorized by the Commission to demonstrate participation in a lottery game.
- (11) Repealed by Session Laws 2009-357, s. 5, effective July 27, 2009. (2005-344, s. 1; 2005-276, s. 31.1(c); 2009-357, s. 5; 2009-570, s. 32(a).)

**§§ 18C-104 through 18C-109:** Reserved for future codification purposes.

## Article 2.

### North Carolina State Lottery Commission.

**§ 18C-110. Establishment of the North Carolina State Lottery Commission to be a self-supporting agency of the State.**

There is created the North Carolina State Lottery Commission to establish and oversee the operation of a Lottery. The Commission shall be located in the Department of Commerce for budgetary purposes only; otherwise, the Commission shall be an independent, self-supporting, and revenue-raising agency of the State. The Commission shall reimburse other governmental entities that provide services to the Commission. (2005-344, s. 1.)

**§ 18C-111. Commission membership; appointment; selection of chair; vacancies; removal; meetings; compensation.**

(a) The Commission shall consist of nine members, five of whom shall be appointed by the Governor, two of whom shall be appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, and two of whom shall be appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives. Commissioners may be removed by the appointing authority for cause. The Governor shall select the chair of the Commission from among its membership, who shall serve at the pleasure of the Governor.

(b) Of the initial appointees of the Governor, three members shall serve a term of one year, one member shall serve a term of two years, and one member shall serve a term of three years. Of the initial appointees of the General Assembly upon the recommendation of the President Pro Tempore of the Senate, one member shall serve a term of two years, and one member shall serve a term of three years. Of the initial appointees of the General Assembly upon the recommendation of the Speaker of the House of Representatives, one member shall serve a term of two years, and one member shall serve a term of three years. All succeeding appointments shall be for terms of five years. Members shall not serve for more than two successive terms.

(c) Vacancies shall be filled by the appointing authority for the unexpired portion of the term in which they occur.

(d) The Commission shall meet at least quarterly upon the call of the chair. A majority of the total membership of the Commission shall constitute a quorum.

(e) Members of the Commission shall receive per diem, subsistence, and travel as provided in G.S. 138-5 and G.S. 138-6. (2005-344, s. 1; 2005-276, s. 31.1(d); 2006-259, s. 8(c).)

**§ 18C-112. Qualifications of Commissioners.**

(a) Of the members of the Commission appointed by the Governor, at least one member shall have a minimum of five years' experience in law enforcement. Notwithstanding subsection (e) of this section, a member serving in this slot may be an elected law enforcement official.

(b) Of the members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate, one member shall be a certified public accountant.

(c) Of the members of the Commission appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives, one member shall have retail sales experience as an owner or manager.

(d) In making appointments to the Commission, the appointing authorities shall consider the composition of the State with regard to geographic representation and gender, ethnic, racial, and age composition.

(e) If any member takes any of the following actions, the member vacates office as a member of the Commission and the vacancy shall be filled as provided by G.S. 18C-111(c):

- (1) Files a notice of candidacy under G.S. 163-106 through 163-106.6 or a petition under G.S. 163-107.1.
- (2) Is nominated to fill a vacancy among party nominees under G.S. 163-114 or G.S. 163-115.
- (3) Files a petition as an unaffiliated candidate under G.S. 163-122.
- (4) Files a declaration of intent as a write-in candidate under G.S. 163-123.
- (5) Is nominated by party convention under G.S. 163-98. (2005-344, s. 1; 2005-276, s. 31.1(e); 2011-145, s. 6.18; 2011-391, s. 10; 2017-3, s. 1; 2017-6, s. 3; 2017-206, s. 8; 2018-146, ss. 3.1(a), (b), 6.1.)

**§ 18C-113. Meetings; records.**

(a) Meetings of the Commission shall be subject to Article 33C of Chapter 143 of the General Statutes.

(b) Except as provided in this Article, records of the Commission shall be open and available to the public in accordance with Chapter 132 of the General Statutes.

(c) Personnel records of the Commission are subject to Article 7 of Chapter 126 of the General Statutes.

(d) Only the following information concerning a lottery winner is a public record: (i) name, (ii) city and state of residence, (iii) game played, (iv) amount won, and (v) date won. For purposes of this subsection, amount won means the nominal prize amount, the cash payment if different from the nominal prize amount, and the cash payment after taxes are withheld. (2005-344, s. 1; 2009-357, s. 6.)

**§ 18C-114. Powers and duties of the Commission.**

(a) The Commission shall have the following powers and duties:

- (1) To specify the types of lottery games and gaming technology to be used in the Lottery.
- (2) To prescribe the nature of lottery advertising which shall comply with the following:
  - a. All advertising shall include resources for responsible gaming information.
  - b. No advertising may intentionally target specific groups or economic classes.
  - c. No advertising may be misleading, deceptive, or present any lottery game as a means of relieving any person's financial or personal difficulties.
  - d. No advertising may have the primary purpose of inducing persons to participate in the Lottery.
- (3) To specify the number and value of prizes for winning tickets or shares in lottery games, including cash prizes, merchandise prizes, prizes consisting of deferred payments or annuities, and prizes of tickets or shares in the same lottery game or other lottery games.
- (4) To specify the rules of lottery games and the method for determining winners of lottery games.
- (5) To specify the retail sales price for tickets or shares for lottery games.
- (6) To establish a system to claim prizes, including determining the time periods within which prizes must be claimed, to verify the validity of tickets or shares claimed to win prizes, and to effect payment of those prizes.
- (7) To conduct a background investigation, including a criminal history record check, of applicants for the position of Director, which may include a search of the State and National Repositories of Criminal Histories based on the fingerprints of applicants.
- (8) To charge a fee of potential contractors and lottery contractors to not exceed the cost of the criminal record check of the potential contractors and lottery contractors.
- (9) To specify the manner of distribution, dissemination, or sale of lottery tickets or shares to lottery game retailers or directly to the public.
- (10) To determine the incentives, if any, for any lottery employees, lottery retailers, lottery contractors, or electronic computer terminal operators.
- (11) To specify the authority, compensation, and role of the Director, and to specify the authority, selection, and role of the other employees of the Commission. All of the following apply to all employees of the Commission:
  - a. No employee of the Commission may have a financial interest in any lottery potential contractor or lottery contractor, other than an interest as part of a mutual fund.

- b. No employee of the Commission with decision-making authority shall participate in any decision involving the retailer or potential contractor with whom the employee has a financial interest.
  - c. No employee of the Commission who leaves the employment of the Commission may represent any lottery contractor, potential contractor, or retailer before the Commission for a period of one year following termination of employment with the Commission.
  - d. A background investigation shall be conducted on each applicant for employment with the Commission.
  - e. The Commission shall bond all employees with access to lottery funds or revenue or security.
- (12) To approve and authorize the Director to enter into agreements with other states to operate and promote multistate lotteries consistent with the purposes set forth in this Chapter.
- (13) Any other powers necessary for the Commission to carry out its responsibilities under this Chapter.

(b) Article 15 of Chapter 143B of the General Statutes shall not apply to the Commission. (2005-344, s. 1; 2005-276, s. 31.1(f); 2009-357, s. 1; 2009-570, s. 32(b), (c); 2015-241, s. 7A.4(a).)

**§ 18C-115. Reports.**

(a) Reports on Operation of the Commission. – The Commission shall send quarterly and annual reports on the operations of the Commission to the Governor, State Treasurer, and to the Joint Legislative Oversight Committee on Agriculture and Natural and Economic Resources, the chairs of the Senate Appropriations Committee on Agriculture, Natural, and Economic Resources, and the chairs of the House of Representatives Appropriations Committee on Agriculture and Natural and Economic Resources. The reports shall include complete statements of lottery revenues, prize disbursements, expenses, net revenues, and all other financial transactions involving lottery funds, including the occurrence of any audit.

(b) Disclosure of Proceeds From Lottery Funding. – Each State department or agency receiving lottery funds shall use its established communications channels to inform the public about amounts received and activities supported by lottery proceeds. (2005-344, s. 1; 2006-225, s. 2; 2014-100, s. 5.2(g); 2015-241, s. 15.23; 2017-57, s. 14.1(o).)

**§ 18C-116. Audits.**

The State Auditor shall conduct annual audits of all accounts and transactions of the Commission and any other special postaudits the State Auditor considers to be necessary. (2005-344, s. 1.)

**§§ 18C-117 through 18C-119:** Reserved for future codification purposes.

Article 3.

North Carolina State Lottery Director.

**§ 18C-120. Selection of the Director; powers and duties.**

(a) The Commission shall select a Director to operate and administer the Lottery and to serve as the Secretary of the Commission. Except as to the provisions of Articles 6 and 7 of Chapter 126 of the General Statutes, the Director shall be exempt from the North Carolina Human Resources Act.

(b) The Director shall have the following powers and duties, under the supervision of the Commission:

- (1) To provide for the reporting of payment of lottery game prizes to State and federal tax authorities and for the withholding of State and federal income taxes from lottery game prizes as provided in State and federal law.
- (2) To conduct a background investigation, including a criminal history record check, of applicants for employment with the Commission, lottery retailers, and lottery potential contractors, which may include a search of the State and National Repositories of Criminal Histories based on the fingerprints of applicants.
- (3) To set the salaries of all Commission employees, subject to the approval of the Commission. Except for the provisions of Articles 6 and 7 of Chapter 126 of the General Statutes, all employees of the Commission shall be exempt from the North Carolina Human Resources Act.
- (4) To enter into contracts with lottery retailers, lottery contractors, or lottery suppliers upon approval by the Commission.
- (5) To provide for the security and accuracy in the operation and administration of the Commission and the Lottery, including examining the background of all prospective employees, lottery potential contractors, lottery contractors, and lottery retailers.
- (6) To coordinate and collaborate with the appropriate law enforcement authorities regarding investigations of violations of the laws relating to the operation of the Lottery and make reports to the Commission regarding those investigations.
- (7) To confer with the Commission on the operation and administration of the Lottery and make available for inspection by the Commission all books, records, files, documents, and other information of the Lottery.
- (8) To study the operation and administration of other lotteries and to collect demographic and other information concerning the Lottery and make recommendations to improve the operation and administration of the Lottery to the Commission, to the Governor, and to the General Assembly.

- (9) To provide monthly financial reports to the Commission of all lottery revenues, prize disbursements, expenses, net revenues, and all other financial transactions involving lottery funds.
- (10) To enter into agreements with other states to operate and promote multistate lotteries consistent with the purposes set forth in this Chapter and upon the approval of the Commission. (2005-344, s. 1; 2005-276, s. 31.1(g); 2009-357, s. 7; 2013-382, s. 9.1(c).)

**§ 18C-121. Accountability; books and records.**

The Director shall have made and kept books and records that accurately and completely reflect each day's transactions, including the distribution of tickets or shares to lottery game retailers, receipt of funds, prize claims, prizes paid directly by the Commission, expenses, and all other financial transactions involving lottery funds necessary to permit preparation of financial statements that conform with generally accepted accounting principles. (2005-344, s. 1; 2005-276, s. 31.1(h).)

**§ 18C-122. Independent audits.**

(a) Biennially, at the beginning of the calendar year, the Commission shall engage an independent firm experienced in security procedures, including computer security and systems security, to conduct a comprehensive study and evaluation of all aspects of security in the operation of the Commission and of the Lottery. At a minimum, such a security assessment should include a review of network vulnerability, application vulnerability, application code review, wireless security, security policy and processes, security/privacy program management, technology infrastructure and security controls, security organization and governance, and operational effectiveness.

(b) The portion of the security audit report containing the overall evaluation of the Commission and of lottery games in terms of each aspect of security shall be presented to the Commission, to the Governor, and to the General Assembly.

(c) The portion of the security audit report containing specific recommendations shall be confidential, shall be presented only to the Director and to the Commission, and shall be exempt from Chapter 132 of the General Statutes. The Commission may hear the report of such an audit, discuss, and take action on any recommendations to address that audit under G.S. 143-318.11(a)(1).

(d) Biennially at the end of the fiscal year, in addition to the audits required by G.S. 18C-116 and by subsection (a) of this section, beginning in 2010, the Commission shall engage an independent auditing firm that has experience in evaluating the operation of lotteries to perform an audit of the Lottery. The results of this audit shall be presented to the Commission, to the Governor, and to the General Assembly. (2005-344, s. 1; 2005-276, s. 31.1(i); 2009-357, s. 15.)

**§§ 18C-123 through 18C-129:** Reserved for future codification purposes.

Article 4.

Operation of Lottery.

**§ 18C-130. Types of lottery games; lottery games and lottery advertising; certain disclosures and information to be provided.**

(a) The Commission shall determine the types of lottery games that may be used in the Lottery. Games may include instant lotteries, online games, games played on computer terminals or other devices, and other games traditional to a lottery or that have been conducted by any other state government-operated lottery.

(b) In lottery games using tickets, each ticket in a particular game shall have printed on it a unique number distinguishing it from every other ticket in that lottery game and an abbreviated form of the game-play rules, including resources for responsible gaming information. In lottery games using tickets, each ticket may have printed on it a depiction of one or more cartoon characters, whose primary appeal is not to minors. In lottery games using tickets with preprinted winners, the overall estimated odds of winning prizes shall be printed on each ticket. No name or photograph of a current or former elected official shall appear on the tickets of any lottery game.

(c) In games using electronic computer terminals or other devices to play lottery games, no coins or currency shall be dispensed to players from those electronic computer terminals or devices.

(d) No games shall be based on the outcome of a particular sporting event or on the results of a series of sporting events.

(e) Lottery advertising shall be tastefully designed and presented in a manner to minimize the appeal of lottery games to minors. The use of cartoon characters or of false, misleading, or deceptive information in lottery advertising is prohibited. All advertising promoting the sale of lottery tickets or shares for a particular game shall include the actual or estimated overall odds of winning the game.

(f) The Commission shall make available a detailed tabulation of the estimated number of prizes of each particular prize denomination that are expected to be awarded in each lottery game or the estimated odds of winning these prizes at the time that lottery game is offered for sale to the public.

(g) The Commission shall, in consultation with the Department of Health and Human Services, develop and provide information to the public about gambling addiction and treatment. (2005-344, s. 1; 2005-276, ss. 31.1(j), 31.1(j1); 2006-259, s. 8(a).)

**§ 18C-131. Sales and sale price of tickets and shares; sales to minors prohibited.**

(a) The Commission may sell tickets and shares directly to the public, contract with lottery game retailers to sell tickets and shares, or distribute tickets or shares through any other method authorized by the Commission.

(b) No ticket or share in a lottery game shall be sold or resold for more than the retail sales price established by the Commission.

(c) The minimum retail price of each ticket or share in any lottery game shall be fifty cents (50¢). The minimum retail price shall not apply to any discounts or promotions authorized by the Commission for a particular lottery game.



(d) It shall be unlawful for a person to sell a lottery ticket or share to a person under the age of 18 years. No person under the age of 18 years shall purchase a lottery ticket or share. A person who violates this subsection shall be guilty of a Class 1 misdemeanor.

(e) It shall be a defense for the person who sold a ticket or share in violation of subsection (d) of this section if the person does either of the following:

(1) Shows that the purchaser produced a valid drivers license, a special identification card issued under G.S. 20-37.7, a military identification card, or a passport, showing the purchaser to be at least 18 years old and bearing a physical description of the person named on the card that reasonably describes the purchaser.

(2) Produces evidence of other facts that reasonably indicated at the time of sale that the purchaser was at least 18 years old. (2005-344, s. 1; 2006-259, s. 8(b).)

**§ 18C-132. Procedures for drawings and claiming prizes; payment of prizes; protection of information concerning certain prize winners.**

(a) If a lottery game uses a daily or less frequent drawing of winning numbers, a drawing among entries including second chance drawings where the value of the prize is five thousand dollars (\$5,000) or more, or a drawing among finalists, all of the following conditions shall be met:

(1) The drawings shall be open to the public.

(2) The drawings shall be witnessed by an independent certified public accountant or by an auditor employed by a certified public accounting firm.

(3) Any equipment used in the drawings shall be inspected by the independent certified public accountant or auditor employed by a certified public accounting firm and an employee of the Commission both before and after the drawings.

(4) Audio and visual records of the drawings and inspections shall be made.

If a lottery game uses a drawing among entries for (i) a second chance drawing or (ii) any other promotion conducted by the lottery, where the value of the prize is less than five thousand dollars (\$5,000) in value, the requirements of subdivisions (2) and (3) of this subsection do not apply.

(b) Prizes that remain unclaimed after the period set by the Commission for claiming the prizes shall not be considered abandoned property. If a valid claim is not made for a prize within the applicable period, the unclaimed prize money shall be handled in accordance with this Chapter.

(c) After the expiration of the claim period for prizes for each lottery game, the Commission shall make available a detailed tabulation of the total number of prizes of each prize denomination that was actually claimed and paid directly by the Commission.

(d) No prize shall be paid for a lottery ticket or share that is stolen, counterfeit, altered, fraudulent, unissued, produced or issued in error, unreadable, not received or recorded by the Commission by the applicable deadlines, lacking in captions that conform and agree with the play symbols as appropriate to the lottery game involved, or not in

compliance with any additional specific rules and public or confidential validation and security tests appropriate to the particular game involved.

(e) No valid claim for a prize in any lottery game shall be paid more than once. The Director, Commission, and the State shall be discharged of all liability upon payment of a prize.

(f) Winners of less than six hundred dollars (\$600.00) shall be permitted to claim prizes from any of the following:

- (1) The same lottery game retailer who sold the winning ticket or share.
- (2) Any other lottery retailer.
- (3) The Commission.

(g) Winners of six hundred dollars (\$600.00) or more shall claim prizes directly from the Commission.

(h) The right of any person to a prize shall not be assignable. Payment of any prize may be paid to a person designated pursuant to a court order. Any prize or portion of a prize remaining unpaid at the death of a prize winner shall be paid to the estate of the deceased prize winner or to the trustee of a trust established by the prize winner or as designated in the deceased prize winner's will, living trust, or other prepared legal instrument if a copy of the trust document or instrument has been filed with the Director, and no written notice of revocation has been received by the Director prior to the prize winner's death.

(i) No ticket or share in a lottery game shall be purchased by, and no prize shall be paid to, a member of the Commission, the Director, or employee of the Commission, or to any spouse, parent, or child living in the same household as a person disqualified by this subsection.

(j) No prize shall be paid to a person under the age of 18.

(j1) If requested by the prize winner, the identity of a prize winner of fifty million dollars (\$50,000,000) or more shall be treated as confidential information under G.S. 132-1.2(8) until 90 days after the winner has claimed the prize.

(k) If a prize winner submits to the Commission a copy of a protective order without attachments, if any, issued to that person under G.S. 50B-3 or a lawful order of any court of competent jurisdiction restricting the access or contact of one or more persons with that prize winner or a current and valid Address Confidentiality Program authorization card issued pursuant to the provisions of Chapter 15C of the General Statutes, that prize winner's identifying information shall be treated as confidential information under G.S. 132-1.2 as long as the protective order remains in effect or the prize winner remains a certified program participant in the Address Confidentiality Program. That prize winner's identifying information shall be available for inspection by a law enforcement agency or by a person identified in a court order if inspection of the address by that person is directed by that court order.

(l) All prizes are subject to the State income tax.

(m) An eligible person serving on active military duty in any branch of the United States Armed Forces during a war or national emergency declared in accordance with federal law may submit a delayed claim for a lottery prize. The claim shall be submitted to

the Commission in writing no later than 540 days after the date the online game prize was announced or the instant game has closed. For the purposes of this subsection, the term "eligible person" means a person who has a valid claim for a prize in a lottery game and meets either of the following criteria:

- (1) While on active military duty in this State, is transferred out of this State as the result of a war or national emergency declared in accordance with federal law before the applicable time period for claiming a lottery prize has elapsed. For the purposes of this subdivision, the term "active military duty" means a person who is covered by the Servicemembers Civil Relief Act, 50 U.S.C. App. § 501, et seq., as amended, or the Uniformed Services Employment and Reemployment Rights Act of 1994, 38 U.S.C. § 4301, et seq., as amended.
- (2) While serving in the Armed Forces Reserves in this State, is transferred out of this State as the result of a war or national emergency declared in accordance with federal law before the applicable time period for claiming a lottery prize has elapsed. (2005-344, s. 1; 2005-276, s. 31.1(k); 2006-225, s. 4; 2009-357, ss. 8, 14; 2018-5, s. 5.3(c); 2019-142, s. 5.)

**§ 18C-133. Lottery game-play rules and winner validation procedures.**

(a) By purchasing a ticket or share in a lottery game, a player agrees to abide by, and be bound by, the game-play rules adopted by the Commission that apply to any particular lottery game involved.

(b) All players acknowledge that the determination of whether the player is a winner is subject to the game-play rules and the winner validation procedures and confidential validation tests established by the Commission for the particular lottery game involved. (2005-344, s. 1.)

**§ 18C-134. Setoff for debt collection against lottery prizes.**

(a) Purpose. – The Commission must establish a debt set-off program by which lottery prize payments may be used to satisfy a debt owed or collected by a claimant agency that is at least fifty dollars (\$50.00). The collection remedy under this section is in addition to and not in substitution for any other remedy available by law.

(b) Notification. – A claimant agency is automatically enrolled in the Commission's debt set-off program if it is enrolled in the Department of Revenue debt set-off program. To provide for more efficient operations, the Department of Revenue shall provide to the Commission on a periodic basis all updates to its debt set-off program as soon as practicable.

(c) Setoff. – The Commission must match the information submitted by the claimant agency with persons who are entitled to a State lottery prize payment in an amount of six hundred dollars (\$600.00) or more. If there is a match, the Commission must set off the debt against the lottery winnings to which the debtor would otherwise be entitled. When there are multiple claims to be set off, the priority in claims to set off is the same as provided in G.S. 105A-12. The winnings that exceed the amount of the debt, if any, must be paid to that person. The Commission must mail the debtor written notice that the setoff has occurred and must transfer the net proceeds collected

to the claimant agency. If the claimant agency is a State agency, that agency must credit the amount received to a nonreverting trust account and must follow the procedure set in G.S. 105A-8.

(d) Collection Assistance Fee. – To recover the costs incurred by the Commission in collecting debts under this section, a collection assistance fee of five dollars (\$5.00) may be imposed on each debt collected through setoff. The Commission must collect this fee as part of the debt and retain it. To recover the costs incurred by local agencies in submitting debts for collection under this section, a collection assistance fee of fifteen dollars (\$15.00) may be imposed on each local agency debt collected through setoff. The Commission must collect this fee as part of the debt and remit it to the clearinghouse that submitted the debt. The collection assistance fees do not apply to child support debts. If the Commission is able to collect only part of a debt through setoff, the Commission's collection assistance fee has priority over the local collection assistance fee and over the remainder of the debt. The local collection assistance fee has priority over the remainder of the debt.

(e) Confidentiality. – Notwithstanding any confidentiality statute of a claimant agency, the exchange of information among the Commission, the Department of Revenue, the claimant agency, the organization submitting debts on behalf of a local agency, and the debtor necessary to implement this section is lawful. The information an agency or organization obtains from the Commission in accordance with the exemption in this subsection may be used by the agency or organization only in the pursuit of its debt collection duties and practices.

(f) Definitions. – The definitions in G.S. 105A-2 apply in this section. (2005-344, s. 1; 2005-276, s. 31.1(k1); 2009-357, ss. 9, 10.)

**§§ 18C-135 through 18C-139:** Reserved for future codification purposes.

## Article 5.

### Lottery Game Retailers.

#### **§ 18C-140. Contracting with lottery game retailers.**

The Commission may contract with lottery game retailers to sell tickets or shares for lottery games upon such terms and conditions as it considers appropriate. The contract entered into between the Commission and the lottery game retailer shall be considered a permit for purposes of Chapter 18B of the General Statutes. No contract to act as a lottery game retailer is assignable or transferable. All contracts with lottery game retailers shall provide that the Director may terminate the contract if the lottery game retailer violates a provision of this Chapter. (2005-344, s. 1; 2005-276, s. 31.1(l).)

#### **§ 18C-141. Selection of lottery game retailers.**

(a) The Director shall recommend to the Commission those persons with whom to contract as lottery game retailers. To the extent practicable, the Director shall meet the minority participation goals under Article 8 of Chapter 143 of the General Statutes.

(b) The Director may not recommend contracting with any of the following:

- (1) A natural person under 21 years of age. This minimum age shall not prohibit employees of a lottery game retailer who are under 21 years of age from selling lottery tickets or shares during their employment.
  - (2) A person who would be engaged exclusively in the business of selling lottery tickets or shares or operating electronic computer terminals or other devices solely for entertainment.
  - (3) A person who is not current in filing all applicable tax returns to the State and in payment of all taxes, interest, and penalties owed to the State, excluding items under formal appeal under applicable statutes. Upon request of the Director, the Department of Revenue shall provide this information about a specific person to the Commission.
  - (4) A person who resides in the same household as a member of the Commission, the Director, or any other employee of the Commission.
- (c) Upon approval of the Commission, the Director shall enter into a contract with the person to sell tickets or shares upon such terms and conditions as the Commission directs. (2005-344, s. 1; 2005-276, s. 31.1(m).)

**§ 18C-142. Compensation for lottery game retailers.**

The amount of compensation paid to lottery game retailers for their sales of lottery tickets or shares shall be seven percent (7%) of the face value of the tickets or shares sold for each lottery game. The Commission shall require submission of reports and remission of lottery revenues to the Commission on a timely basis. (2005-344, s. 1; 2005-276, s. 31.1(n); 2009-357, s. 11.)

**§ 18C-143. Responsibilities of lottery game retailers.**

(a) A lottery game retailer shall comply with all provisions of this Article and the contract with the Commission.

(b) A lottery game retailer shall sell no lottery tickets or shares unless the retailer conspicuously displays a certificate of authority, signed by the Director, to sell lottery tickets or shares. The Commission shall issue a certificate of authority to each lottery game retailer for purposes of display for each retail outlet owned or operated by the lottery game retailer. No certificate is assignable or transferable.

(c) A lottery game retailer shall furnish an appropriate bond or letter of credit, if so requested by the Director. The Commission may authorize the Director to purchase blanket bonds covering the activities of any or all lottery game retailers.

(d) The Commission shall adopt rules to establish procedures governing how the lottery game retailers:

- (1) Account for all tickets or shares in their custody, including tickets and shares sold.
- (2) Account for the money collected from the sale of tickets and shares.
- (3) Remit funds to the Commission, provided that all payments shall be in the form of electronic fund transfers or other recorded financial instruments as authorized by the Commission and approved by the Director.

(e) No lottery retailer or applicant to be a lottery retailer shall pay, give, or make any economic opportunity, gift, loan, gratuity, special discount, favor, hospitality, or service, excluding food and beverages having an aggregate value not exceeding one hundred dollars (\$100.00) in any

calendar year, to the Director, to any member or employee of the Commission, or to any member of the immediate family residing in the same household as one of these individuals.

(f) All lottery proceeds minus applicable retailer commissions are held in trust by lottery retailers until such time as they are received by the Commission. A lottery retailer shall have a fiduciary duty to preserve and account for lottery proceeds including any unsold tickets. (2005-344, s. 1; 2005-276, s. 31.1(o); 2009-357, s. 13.)

**§§ 18C-144 through 18C-149:** Reserved for future codification purposes.

## Article 6.

### Lottery Potential Contractors and Lottery Contractors.

#### **§ 18C-150. Procurements.**

The Commission shall be exempt from Article 3 of Chapter 143 of the General Statutes but may use the services of the Department of Administration in procuring goods and services for the Commission. However, the Commission shall include in all contracts to be awarded by the Commission under this section a standard clause which provides that the State Auditor and internal auditors of the Commission may audit the records of the contractor during and after the term of the contract to verify accounts and data affecting fees and performance. The Commission shall not award a cost plus percentage of cost contract for any purpose. For purposes of this provision, "cost plus percentage of cost contract" is defined as a contract under which the contractor receives payment for indeterminate costs plus a stated percentage or amount of profit based upon such costs. This provision shall not apply to Commission contracts that require costs to be predetermined and approved by the Commission and a total not to exceed the amount specified in each contract to be paid to the contractor. (2005-344, s. 1; 2010-194, s. 1; 2011-326, s. 15(a).)

#### **§ 18C-151. Contracts.**

(a) Except as otherwise specifically provided in this subsection for contracts for the purchase of services, apparatus, supplies, materials, or equipment, Article 8 of Chapter 143 of the General Statutes, including the provisions relating to minority participation goals, shall apply to contracts entered into by the Commission. If this subsection and Article 8 of Chapter 143 are in conflict, the provisions of this subsection shall control. In recognition of the particularly sensitive nature of the Lottery and the competence, quality of product, experience, and timeliness, fairness, and integrity in the operation and administration of the Lottery and maximization of the objective of raising revenues, a contract for the purchase of services, apparatus, supplies, materials, or equipment requiring an estimated aggregate expenditure of three hundred thousand dollars (\$300,000) or more may be awarded by the Commission only after the following have occurred:

- (1) The Commission has invited proposals to be submitted by advertisement by electronic means or advertisement in a newspaper having general circulation in the State of North Carolina and containing the following information:
  - a. The time and place where a complete description of the services, apparatus, supplies, materials, or equipment may be had.
  - b. The time and place for opening of the proposals.
  - c. A statement reserving to the Commission the right to reject any or all proposals.
- (2) Proposals may be rejected for any reason determined by the Commission to be in the best interest of the Lottery.
- (3) All proposals shall be accompanied by a bond or letter of credit in an amount equal to not less than five percent (5%) of the proposal and the fee to cover the cost of the criminal record check conducted under G.S. 143B-935.
- (4) The Commission has complied with the minority participation goals of G.S. 143-128.2 and G.S. 143-128.3.
- (5) The Commission may not award a contract to a lottery potential contractor who has been convicted of a felony or any gambling offense in any state or federal court of the United States within 10 years of entering into the contract, or employs officers and directors who have been convicted of a felony or any gambling offense in any state or federal court of the United States within 10 years of entering into the contract.
- (6) The Commission shall investigate and compare the overall business practices, ethical reputation, criminal record, civil litigation, competence, integrity, background, and regulatory compliance record of lottery potential contractors.
- (7) The Commission may engage an independent firm experienced in evaluating government procurement proposals to aid in evaluating proposals for a major procurement.
- (8) The Commission shall award the contract to the responsible lottery potential contractor or lottery supplier who submits the best proposal that maximizes the benefits to the State.

(b) Upon the completion of the bidding process, a contract may be awarded to a lottery contractor or lottery supplier with whom the Commission has previously contracted for the same purposes.

(c) Before a contract is awarded, the Director shall conduct a thorough background investigation of all of the following:

- (1) The potential contractor to whom the contract is to be awarded.
- (2) Any parent or subsidiary corporation of the potential contractor to whom the contract is to be awarded.
- (3) All shareholders with a five percent (5%) or more interest in the potential contractor or parent or subsidiary corporation of the potential contractor

to whom the contract is to be awarded. For purposes of this subdivision, "shareholders" means any natural person or those individuals with capabilities to make operating decisions for the potential contractor or parent or subsidiary corporation of the potential contractor to whom the contract is to be awarded.

- (4) All officers and directors of the potential contractor or parent or subsidiary corporation of the potential contractor to whom the contract is to be awarded.

(d) The Commission may terminate the contract, without penalty, of a lottery contractor that fails to comply with the Commission's instruction to implement the recommendations of the State Auditor or an independent auditor in an audit conducted of Lottery security or operations.

(e) After entering into a contract with a lottery contractor, the Commission shall require the lottery contractor to periodically update the information required to be disclosed under G.S. 18C-152(c). Any contract with a lottery contractor who does not periodically update the required disclosures may be terminated by the Commission.

(f) No lottery contractor, potential contractor, or lottery supplier may pay, give, or make any economic opportunity, gift, loan, gratuity, special discount, favor, hospitality, or service, excluding food and beverages having an aggregate value not exceeding one hundred dollars (\$100.00) in any calendar year, to the Director, any member or employee of the corporation, or a member of the immediate family residing in the same household as any of these individuals. (2005-344, s. 1; 2005-276, s. 31.1(p); 2006-259, s. 8(d); 2009-357, s. 3; 2009-570, s. 32(d); 2012-194, s. 64; 2013-360, s. 6.8; 2014-100, s. 17.1(ff).)

### **§ 18C-152. Investigation of lottery potential contractors.**

(a) Lottery potential contractors shall cooperate with the Director in completing any investigation required under G.S. 18C-151(c), including any appropriate investigation authorizations needed to facilitate these investigations.

(b) The Commission shall adopt rules that provide for disclosures of information required to be disclosed under subsection (c) of this section by lottery potential contractors to ensure that the potential contractors provide all the information necessary to allow for a full and complete evaluation by the Director and Commission of the competence, integrity, background, and character of the lottery potential contractors. Information shall be disclosed for the following:

- (1) If the potential contractor is a corporation, the officers, directors, and each stockholder in that corporation; however, 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 percent (5%) or more of the securities need be disclosed.
- (2) If the potential contractor is a trust, the trustee and all persons entitled to receive income or benefits from the trust.



- (3) If the potential contractor is an association, the members, officers, and directors.
- (4) If the potential contractor is a partnership or joint venture, all of the general partners, limited partners, or joint venturers.
- (5) For any potential contractor, any person who can exercise control or authority, or both, on behalf of the potential contractor. For any potential contractor, any person who can exercise control or authority, or both, on behalf of the potential contractor.

(c) For purposes of this subsection, the term "potential contractor" shall include the potential contractor and each of the persons applicable under subsection (b) of this section. At a minimum, the potential contractor required to disclose information for a thorough background investigation under G.S. 18C-151 shall do all of the following:

- (1) Disclose the potential contractor's name, phone number, and address.
- (2) Disclose all the states and jurisdictions in which the potential contractor does business and the nature of the business for each state or jurisdiction.
- (3) Disclose all the states and jurisdictions in which the potential contractor has contracts to supply gaming goods or services, including lottery goods and services, and the nature of the goods or services involved for each state or jurisdiction.
- (4) Disclose all the states and jurisdictions in which the potential contractor has applied for, has sought renewal of, has received, has been denied, has pending, or has had revoked a lottery or gaming license or permit of any kind or had fines or penalties assessed on a license, permit, contract, or operation and the disposition of such in each such state or jurisdiction. If any lottery or gaming license, permit, or contract has been revoked or has not been renewed or any lottery or gaming license, permit, or application has been either denied or is pending and has remained pending for more than six months, all of the facts and circumstances underlying the failure to receive that license shall be disclosed.
- (5) Disclose the details of any finding or plea, conviction, or adjudication of guilt in a state or federal court of the potential contractor for any felony or any other criminal offense other than a minor traffic violation.
- (6) Disclose the details of any bankruptcy, insolvency, reorganization, or corporate or individual purchase or takeover of another corporation, including bonded indebtedness, or any pending litigation of the potential contractor.
- (7) If at least twenty-five percent (25%) of the cost of a potential contractor's contract is subcontracted, the potential contractor shall disclose all of the information required by this section for the subcontractor as if the subcontractor were itself a potential contractor.
- (8) Make any additional disclosures and information the Commission determines to be appropriate for the contract involved.

(d) All documents compiled by the Director in conducting the investigation of the lottery potential contractors shall be held as confidential information under Chapter 132 of the General Statutes. (2005-344, s. 1; 2005-276, s. 31.1(q); 2009-357, s. 4.)

**§§ 18C-153 through 18C-159:** Reserved for future codification purposes.

## Article 7.

### North Carolina State Lottery Fund.

#### **§ 18C-160. North Carolina State Lottery Fund.**

An enterprise fund, to be known as the North Carolina State Lottery Fund, is created within the State treasury. The North Carolina State Lottery Fund is appropriated to the Commission and may be expended without further action of the General Assembly for the purposes of operating the Commission and the lottery games. (2005-344, s. 1.)

#### **§ 18C-161. Types of income to the North Carolina State Lottery Fund.**

The following revenues shall be deposited in the North Carolina State Lottery Fund:

- (1) All proceeds from the sale of lottery tickets or shares.
- (2) The funds for initial start-up costs provided by the State.
- (3) All other funds credited or appropriated to the Commission from any source.
- (4) Interest earned by the North Carolina State Lottery Fund. (2005-344, s. 1.)

#### **§ 18C-162. Allocation of revenues.**

(a) The Commission shall allocate revenues to the North Carolina State Lottery Fund in order to increase and maximize the available revenues for education purposes, and to the extent practicable, shall adhere to the following guidelines:

- (1) At least fifty percent (50%) of the total annual revenues, as described in this Chapter, shall be returned to the public in the form of prizes.
- (2) At least thirty-five percent (35%) of the total annual revenues, as described in this Chapter, shall be transferred as provided in G.S. 18C-164.
- (3) No more than eight percent (8%) of the total annual revenues, as described in this Chapter, shall be allocated for payment of expenses of the Lottery. Advertising expenses shall not exceed one percent (1%) of the total annual revenues.
- (4) No more than seven percent (7%) of the face value of tickets or shares, as described in this Chapter, shall be allocated for compensation paid to lottery game retailers.

(b) To the extent that the expenses of the Commission are less than eight percent (8%) of total annual revenues, the Commission may allocate any surplus funds:

- (1) To increase prize payments; or
- (2) To the benefit of the public purposes as described in this Chapter.

(c) Unclaimed prize money shall be held separate and apart from the other revenues and allocated as follows:

- (1) Fifty percent (50%) to enhance prizes under subdivision (a)(1) of this section.
- (2) Fifty percent (50%) to the Education Lottery Fund to be allocated in accordance with G.S. 18C-164(c). (2005-344, s. 1; 2005-276, s. 31.1(r); 2007-323, s. 5.2(c); 2009-357, s. 12.)

**§ 18C-163. Expenses of the Lottery.**

- (a) Expenses of the Lottery may include any of the following:
  - (1) The costs incurred in operating and administering the Commission, including initial start-up costs.
  - (2) The costs resulting from any contracts entered into for the purchase or lease of goods or services required by the Commission.
  - (3) A transfer of one million dollars (\$1,000,000) annually to the Department of Health and Human Services for gambling addiction education and treatment programs.
  - (4) The costs of supplies, materials, tickets, independent studies and audits, data transmission, advertising, promotion, incentives, public relations, communications, bonding for lottery game retailers, printing, and distribution of tickets and shares.
  - (5) The costs of reimbursing other governmental entities for services provided to the Commission.
  - (6) The costs for any other goods and services needed to accomplish the purposes of this Chapter.
- (b) Expenses of the lottery shall also include all of the following:
  - (1) A transfer of two million one hundred thousand dollars (\$2,100,000) annually to the Department of Public Safety, Alcohol Law Enforcement Division, for gambling enforcement activities.
  - (2) Advertising costs. (2005-344, s. 1; 2005-276, s. 31.1(s); 2015-241, s. 5.2(c); 2017-57, s. 5.3(b); 2019-203, s. 9(a).)

**§ 18C-164. Transfer of net revenues.**

(a) The funds remaining in the North Carolina State Lottery Fund after receipt of all revenues to the Lottery Fund and after accrual of all obligations of the Commission for prizes and expenses, excluding balance sheet adjustments or prior-period expense adjustments necessary to implement changes in accounting methods or accounting standards, shall be considered to be the net revenues of the North Carolina State Lottery Fund. The net revenues of the North Carolina State Lottery Fund shall be transferred at least four times a year to the Education Lottery Fund, which shall be created in the State treasury.

- (b) Repealed by Session Laws 2017-57, s. 5.3(c), effective July 1, 2017.

(b1) Net revenues credited to the Education Lottery Fund shall be appropriated in an amount equal to the amount appropriated from the Education Lottery Fund.

(b2) The Office of State Budget and Management shall transfer any net revenues remaining in the Education Lottery Fund after the appropriations made pursuant to subsection (b1) of this section to the Education Lottery Reserve Fund, a special revenue fund, necessary to maintain a minimum balance in an amount equal to five percent (5%) of net revenue credited to the Education Lottery Fund from the State Lottery Fund during the previous fiscal year.

(b3) Any net revenues remaining after appropriation pursuant to subsection (b1) of this section and transfer pursuant to subsection (b2) of this section are hereby appropriated to the Needs-Based Public School Capital Fund.

(b4) Notwithstanding subsection (b2) of this section, the minimum balance of the Education Lottery Reserve Fund may be less than the amount equal to five percent (5%) of net revenue credited to the Education Lottery Fund from the State Lottery Fund during the previous fiscal year if funds are necessary to meet the amount of net revenues appropriated pursuant to subsection (b1) of this section.

(c) The General Assembly shall appropriate the remaining net revenue of the Education Lottery Fund annually in the Current Operations Appropriations Act for education-related purposes, based upon estimates of lottery net revenue to the Education Lottery Fund provided by the Office of State Budget and Management and the Fiscal Research Division of the Legislative Services Commission. A security interest shall not be granted in funds appropriated pursuant to this subsection.

(d) Repealed by Session Laws 2013-360, s. 6.11(c), effective June 30, 2013.

(e) If the actual net revenues are less than the appropriation provided in subsection (b1) of this section for that given year, then the Governor may transfer from the Education Lottery Reserve Fund an amount sufficient to equal the appropriation provided by subsection (b1) of this section.

(f) Repealed by Session Laws 2017-57, s. 5.3(c), effective July 1, 2017. (2005-344, s. 1; 2005-276, s. 31.1(t); 2006-259, s. 8(e); 2013-360, s. 6.11(c); 2014-100, s. 5.2(e); 2016-94, s. 5.1(b); 2017-57, s. 5.3(c); 2018-5, ss. 5.2, 5.3(b); 2020-78, s. 1.1.)

**§§ 18C-165 through 18C-169:** Reserved for future codification purposes.

## Article 8.

### Miscellaneous.

#### **§ 18C-170. Preemption of local regulation.**

A county or municipality shall not enact any ordinance or regulation relating to the Lottery, and this Chapter preempts all existing county or municipal ordinances or regulations that would impose additional restrictions or requirements in the operation of the Lottery. To the extent that

this Chapter conflicts with any local act, this Chapter prevails to the extent of the conflict. (2005-344, s. 1; 2005-276, s. 31.1(t1).)

**§ 18C-171. Lawful activity.**

Other than this Chapter, any other public or local law, ordinance, or regulation providing any penalty, restriction, regulation, or prohibition for the manufacture, transportation, storage, distribution, advertising, possession, or sale of any lottery tickets or shares, or for the operation of any lottery game shall not apply to the operation of the Commission or lottery games established by this Chapter where the penalty, restriction, regulation, or prohibition applies only to the Lottery as operated by the North Carolina State Lottery Commission. (2005-344, s. 1; 2005-276, s. 31.1(u).)

**§ 18C-172:** Repealed by Session Laws 2014-100, s. 5.2(f), effective July 1, 2014.

**§ 18C-173. Limits on compensation increases.**

Notwithstanding G.S. 18C-114(a)(11) and G.S. 18C-120(b)(3), the Lottery Commission, during any fiscal year, may not expend funds for merit and performance-based salary increases in excess of the funds that would have been expended had the Lottery Commission employees received the same across-the-board salary increases granted by the General Assembly to State employees subject to the North Carolina Human Resources Act. These merit and performance-based salary increases may be awarded on an aggregated average basis according to rules adopted by the Lottery Commission. (2008-107, s. 26.12A; 2013-382, s. 9.1(c).)

**§ 18C-174. Number of regional offices limited.**

The Lottery Commission shall maintain no more than seven regional offices. A regional office may include a claims center, but in no event shall the Lottery Commission maintain more than seven regional offices as provided in this section. (2015-241, s. 5.2(d).)

**§ 18C-175. Use of public assistance funds.**

The Commission and all lottery game retailers are prohibited from accepting any form of public assistance funds for the purchase of any lottery ticket or participation in any lottery game. (2015-241, s. 5.2(d).)