

Negotiated Rulemaking Closed

IDAPA 52 – IDAHO STATE LOTTERY COMMISSION

52.01.03 - RULES GOVERNING OPERATIONS OF THE IDAHO STATE LOTTERY

DOCKET NO. 52-0103-1203

NOTICE OF INTENT TO PROMULGATE RULES - NEGOTIATED RULEMAKING

AUTHORITY: In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Section 67-7408(1)(e), Idaho Code.

METHOD OF PARTICIPATION: Persons wishing to participate in the negotiated rulemaking must do the following:

Interested members of the public who wish to participate must submit any written comments, questions, recommendations, or ideas to Jeffrey R. Anderson, Executive Director, Idaho State Lottery, 1199 Shoreline Lane, Suite 100, P. O. Box 6537, Boise, Idaho 83707-6537, or via email at janderson@lottery.idaho.gov. Responses must be received by September 17, 2012.

Should a reasonable number of persons respond to this notice, negotiated meetings will be scheduled and all scheduled meetings shall be posted and made accessible on the agency website at the address listed below.

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusions reached during the negotiated rulemaking will be addressed in a written summary and made available on the agency website.

Failure of interested persons to respond to this notice of intent or the lack of a sufficient number of responses to this notice of intent may result in the discontinuation of further informal proceedings. In either event the agency shall have sole discretion in determining the feasibility of scheduling and conducting informal negotiated rulemaking and may proceed directly to formal rulemaking if proceeding with negotiated rulemaking is deemed infeasible.

DESCRIPTIVE SUMMARY: The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principle issues involved:

The Lottery offers many different play styles, from draw and Scratch games to PullTabs. This rule allows the Lottery to include a terminal produced Scratch style game in our current portfolio, which will appeal to social environment retailers and other non-traditional locations. The games are designed to be played on the Lottery's new player operated vending machine, the MP, which currently sells only draw tickets. The purpose of the machine is to reduce lines and speed transactions in high volume retail locations and improve the purchasing experience for customers and retailers. The change requested allows for a terminal game, which is structured like a Scratch game, with a finite number of tickets, pools and assigned pack and ticket numbers, but delivers the play via a multi-purpose vending machine, or MP.

ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING COPIES: For assistance on technical questions concerning this negotiated rulemaking or to obtain a copy of the preliminary draft of the text of the proposed rule, contact Jeffrey R. Anderson, Executive Director, (208) 334-2600.

An electronic copy of the preliminary draft of the proposed rule text is also available on the agency website listed below.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before September 17, 2012.

DATED this 2nd day of August 2012.

Jeffrey R. Anderson, Executive Director
Idaho State Lottery
1199 Shoreline Lane, Suite 100
P. O. Box 6537
Boise, ID 83707-6537
Phone: (208) 334-2600
Fax: (208) 334-2610
www.idaholottery.com



Proposed/Temporary Administrative Rules Form

Section 1 (To be Completed by Agency)

Agency Name: Idaho Lottery		STARS Agency Code: 440	Fax Number: (208) 344-2610	Date: 7/11/12
Contact Person: Jeffrey R. Anderson	Title: Executive Director	Phone: (208) 334-2600	Email: janderson@lottery.idaho.gov	
Bernice Myles, Office of the Attorney General	Paralegal	(208) 334-4520	bernice.myles@ag.idaho.gov	
Person Authorizing Rule: Jeffrey R. Anderson	Title: Executive Director	Phone: (208) 334-2600	Email: janderson@lottery.idaho.gov	
Statutory Authority for the rule making (Idaho Code, Federal Statute or Regulation): Section 67-7408(1)(e), Idaho Code				
Title, Chapter, and Possible Docket (IDAPA) Number: IDAPA 52.01.03 – Rules Governing Operations of the Idaho State Lottery; Docket No.				
This rule is: <input checked="" type="checkbox"/> Proposed <input type="checkbox"/> Temporary			Effective Date:	
If this is a temporary rule: <input type="checkbox"/> Necessary to protect the public health, safety, or welfare; or <input type="checkbox"/> Compliance with deadlines in amendments to governing law or federal programs; or <input type="checkbox"/> Conferring a benefit. Please explain:				
If this is a temporary rule which imposes a fee or charge, provide justification as described in Idaho Code 67-5226(2): N/A				
Agency has determined according to Idaho Code 67-5220(1): <input checked="" type="checkbox"/> This rule is to be negotiated <input type="checkbox"/> Negotiation of this rule is not feasible				
If rule is negotiated: Agency certifies that the rule <input type="checkbox"/> has been or <input checked="" type="checkbox"/> will be negotiated with interested persons as outlined in Idaho Code 67-5220(3). <i>(indicate which)</i>				
If rule negotiation is not feasible, the agency has determined: N/A <input type="checkbox"/> Rule is temporary; or <input type="checkbox"/> Lack of identifiable representatives of affected interests; or <input type="checkbox"/> Rule is simple in nature; or <input type="checkbox"/> Affected interests are not likely to reach consensus; or <input type="checkbox"/> Other.				
Please explain:				

Provide a fiscal impact statement for all programs affected. Be sure to reflect both positive and negative impacts and to include all fund sources including both the General Fund and dedicated funds: The Lottery anticipates no negative fiscal impact. The requested game type will allow the Lottery to enhance existing offerings in the field, and potentially augment sales to current non-traditional, social environments.

Provide a short explanation of the need for this rule: The Lottery offers many different play styles, from draw and Scratch games to PullTabs. This rule allows the Lottery to include a terminal produced Scratch style game in our current portfolio, which will appeal to social environment retailers and other non-traditional locations. The games are designed to be played on the Lottery's new player operated vending machine, the MP, which currently sells only draw tickets. The purpose of the machine is to reduce lines and speed transactions in high volume retail locations and improve the purchasing experience for customers and retailers.

Provide a short summary of the changes this rule makes: The change requested allows for a terminal game, which is structured like a Scratch game, with a finite number of tickets, pools and assigned pack and ticket numbers, but delivers the play via a multi-purpose vending machine, or MP.

Provide a list of those persons or interest group(s) affected by this rule: Idaho Lottery players.

Section 2 (To be Completed by DFM)

DFM Analyst Comments:

DFM Analyst Fiscal Impact Review:

DFM Analyst Signature & Date:	Recommend: <input type="checkbox"/> Yes <input type="checkbox"/> No
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Gov Special Assistant Signature & Date:	Recommend: <input type="checkbox"/> Yes <input type="checkbox"/> No
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DFM Administrator Action:

- Approved
- Authorized to Advance Rulemaking Process, DFM to review draft rule prior to publication (See Section 3)
- Not Approved

DFM Administrator Signature & Date:

Section 3 (To Be Completed By DFM if Required)

DFM Analyst Signature & Date:	Recommend: <input type="checkbox"/> Yes <input type="checkbox"/> No
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DFM Administrator Signature & Date:	Approved: <input type="checkbox"/> Yes <input type="checkbox"/> No
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**IDAPA 52
TITLE 01
CHAPTER 03**

52.01.03 - RULES GOVERNING OPERATIONS OF THE IDAHO STATE LOTTERY

204. ON-LINE COMPUTER GAMES (RULE 204).

01. On-Line Games -- Authorized -- Director's Authority. The Commission hereby authorizes the Director to select and operate on-line games which meet the criteria set forth in these rules. (3-26-08)

02. Definitions. As used in Rule 204 these terms have the following definitions: (3-26-08)

a. "Drawing." The procedure determined by the Director by which the Lottery selects the winning combination in accordance with the rules of the game. Drawings are open to the public. The equipment used in any drawing must be inspected by the Director of Security or his designee both before and after the drawing. (5-8-09)

b. "On-line Game." (3-26-08)

i. A Lottery game in which a player selects a combination of numbers or symbols, the type of game and amount of play, and the drawing date by use of a computer. In return for paying the appropriate fee, the player receives a computer-generated ticket with the player's selection printed on it. Each ticket bearer whose valid ticket includes a winning combination will be entitled to a prize if claim is submitted within the specified time period. (3-26-08)

ii. On-line terminal (OLT) instant ticket game having characteristics as defined in Paragraphs 202.02.a., b., d. and i. of these rules. ()

c. "On-line Retailer." A person or business authorized by the Lottery to sell on-line tickets. (3-26-08)

d. "On-line Terminal (OLT)." The computer hardware by which an on-line retailer or player enters the combination selected by the player and by which on-line tickets are generated and claims are validated. (3-26-08)

e. "On-line Ticket." A computer-generated ticket issued by an on-line terminal to a player as a receipt for the combination a player has selected. That ticket is the only acceptable evidence of the combination of numbers or symbols selected. (3-26-08)

f. "Ticket Bearer." The person who has signed the on-line ticket or who has possession of an unsigned ticket. (3-26-08)

g. "Validation." The process of determining whether an on-line ticket presented for payment is a winning ticket. (3-26-08)

h. "Winning Combination." One (1) or more numbers or symbols randomly selected by the State Lottery or its designee in a public drawing. (3-26-08)

03. Distribution of Tickets. (3-26-08)

- a. Tickets will be sold by retailers selected by the Director. (3-26-08)
- b. The Director is authorized to arrange for the distribution of OLTs, player-activated terminals (PATs), ticket stock, and supplies to certificated retailers. (3-26-08)

04. Sale of Tickets. (3-26-08)

- a. No person other than a retailer under a contract for the sale of tickets with the Lottery may sell on-line Lottery tickets, except that nothing in this section will be construed to prevent a person who may lawfully purchase tickets from making a gift of Lottery tickets to another. (3-26-08)
- b. Tickets may not be sold at a location other than the address listed on the retailer's contract with the Lottery. (3-26-08)
- c. Nothing in this section shall be construed to prohibit the Director from designating certain of its agents and employees to sell Lottery tickets directly to the public. (3-26-08)

05. On-Line Games Criteria. (3-26-08)

- a. The base price of an on-line ticket will not be less than fifty cents (\$.50), except to the extent of discounts authorized by the Commission. (3-26-08)
- b. The price for a ticket in any particular on-line game will be set out in the game rules adopted by the Commission for that game. No person may sell a ticket at a price other than that established in accordance with these rules. On the average, the total of all prizes available to be won in an on-line game shall not be less than forty-five percent (45%) of the on-line game's projected revenue. (3-26-08)

c. The manner and frequency of drawings may vary with the type of on-line game as defined in Subparagraph 204.02.b.i. of these rules. ~~(3-26-08)~~()

d. The times, locations, and drawing procedures will be determined by the Director. (3-26-08)

e. OLT instant ticket game as defined in Subparagraph 204.02.b.ii. of these rules will operate with a finite number of tickets per game and a predetermined and guaranteed prize structure approved by the Director. ()

ef. A ticket bearer entitled to a prize must submit the winning ticket as specified by the Director. The winning ticket must be validated by the Lottery or an on-line retailer through use of the validation number and any other means specified by the Director. (3-26-08)

06. Payment of Prizes. (3-26-08)

a. To claim an on-line game prize of less than six hundred dollars (\$600) the claimant may present the winning on-line ticket to any on-line retailer, or to the Boise Lottery office: (3-26-08)

i. If the claim is presented to an on-line retailer, the on-line retailer must validate the claim and, if determined to be a winning ticket, pay the amount due the claimant. If the on-line retailer cannot validate the claim, the claimant may obtain and complete a claim form and submit it with the disputed ticket to the Lottery by mail or in person. Upon determination that the ticket is a winning ticket, the Lottery will present or mail a check to the

claimant in payment of the amount due. If the ticket is determined to be a non winning ticket, the claim will be denied and the claimant will be promptly notified. Non-winning tickets will not be returned to the claimant.(3-26-08)

ii. If the claim is presented to the Boise Lottery office, the claimant may be required to complete a claim form and submit it with the winning ticket, either by mail or in person. Upon determination that the ticket is a winning ticket, the Lottery will present or mail a check to the claimant in payment of the amount due, less any withholding required by the Internal Revenue Code. If the ticket is determined to be a non-winning ticket, the claim will be denied and the claimant will be promptly notified. Non-winning tickets will not be returned to the claimant. (3-26-08)

b. To claim an on-line prize of six hundred dollars (\$600) or more, the claimant must obtain and complete a claim form and submit it with the winning ticket to the Boise Lottery office by mail or in person. Prizes of six hundred dollars (\$600) or more can be paid only from the Boise Lottery office. Upon determination that the ticket is a winning ticket, the Lottery will present or mail a check to the claimant in payment of the amount due, less any withholding required by the Internal Revenue Code. The amount due will be calculated according to the rules adopted for the particular on-line game. If the ticket is determined to be a non-winning ticket, the claim will be denied and the claimant will be promptly notified. Non-winning tickets will not be returned to the claimant.(3-26-08)

c. All prizes must be claimed within one hundred eighty (180) days from the drawing in which the prize was won. If the final day of the one hundred eighty (180) day period falls on a Saturday, Sunday or a state holiday, the claim period will be extended to the end of the next business day. Any prize not claimed within the specified period will be forfeited and placed into the State Lottery account. (3-26-08)

07. Drawings and End of Sales Prior to Drawings. (3-26-08)

a. Drawings will be conducted in a location and at days and times designated by the Director. (3-26-08)

b. For each type of on-line game, the Director will establish a time before the drawing for the end of sales. (3-26-08)

c. The Director will designate a Drawing Manager who will oversee each drawing. The Drawing Manager must attest that the drawing was conducted in accordance with proper drawing procedures at the end of each drawing. (3-26-08)

d. The Director will designate the type of equipment to be used and will establish procedures to randomly select the winning combination for each type of on-line game. Drawing procedures will include provisions for the substitution of backup drawing equipment if the primary drawing equipment malfunctions or fails for any reason. (3-26-08)

e. The equipment used to determine the winning combination will not be electronically or otherwise connected to the central computer or to any tapes, discs, files, etc., generated or produced by the central computer. The equipment must be tested before and after each drawing to assure proper operation and lack of tampering or fraud. Drawings will not be held until all pre-inspection checks are completed. No prizes will be paid until after all post-inspection checks have been completed. (3-26-08)

f. All drawings may be broadcast live on television, provided the facilities for such broadcasts are available and operational and can be done at a reasonable cost. (5-8-09)

g. The Director will establish procedures governing the conduct of drawings for each type of on-line

game. The procedures must include provisions for deviations that include but are not limited to: (3-26-08)

- i. Malfunction of the drawing equipment before determination of the winning combination; (3-26-08)
- ii. Fouled drawing; (3-26-08)
- iii. Delayed drawing; and (3-26-08)
- iv. Other equipment, facility or personnel difficulties. (3-26-08)

h. If a deviation occurs, the drawing will be completed under the supervision of the Lottery or its designee. The winning combination will be provided to the television network for dissemination to the public. (5-8-09)

i. If, during any live-broadcast drawing for a game, a mechanical failure or operator error causes an interruption in the selection of all numbers or symbols, a “foul” will be called by the Drawing Manager or the Lottery’s designee. Any number drawn before a “foul” is called will stand and be deemed official after passing inspection and certification by the Drawing Manager or the Lottery’s designee. (3-26-08)

j. The Director must delay payment of all prizes if any evidence exists or there are grounds for suspicion that tampering or fraud has occurred. Payment will be made after an investigation is completed and the drawing approved by the Drawing Manager or the Lottery’s designee. If the drawing is not approved, it will be void and another drawing will be conducted to determine the actual winner. (3-26-08)

08. Validation Requirements. (3-26-08)

a. To be a valid winning on-line ticket, all of the following conditions must be met: (3-26-08)

i. All printing on the ticket must be present in its entirety, be legible, and correspond, using the computer validation file, to the combination and the date printed on the ticket. (3-26-08)

ii. The ticket must be intact. (3-26-08)

iii. The ticket must not be mutilated, altered, or tampered with in any manner. (3-26-08)

iv. The ticket cannot be counterfeit or an exact duplicate of another winning ticket. (3-26-08)

v. The ticket must have been issued by an authorized on-line retailer or dispensed by a player-activated terminal in an authorized manner. (3-26-08)

vi. The ticket must not have been stolen or cancelled. (3-26-08)

vii. The ticket must not have been previously paid. (3-26-08)

viii. The ticket must pass all other confidential security checks of the Lottery. (3-26-08)

ix. If the prize is for six hundred dollars (\$600) or more, the ticket must be signed. (3-26-08)

b. A ticket failing any of the validation requirements listed in Paragraph 204.08.a. of this rule is

invalid and ineligible for a prize. The final decision on whether a prize is paid will be made by the Director. (3-26-08)

c. If there is a dispute between the Director and a claimant whether a ticket is a winning ticket, and if the Director determines that the ticket is not valid and a prize is not paid, the Director may replace the disputed ticket with a ticket of equivalent sales price for a future drawing of the same type of game. This will be the sole and exclusive remedy of the claimant. (3-26-08)

d. If a defective on-line ticket is purchased, the only responsibility or liability of the Lottery or of the on-line retailer is the replacement of the defective on-line ticket with another on-line ticket of equivalent value for a future drawing of the same type of game. (3-26-08)

09. Retailer Duties. Retailers with an on-line terminal (OLT) must perform the following duties: (3-26-08)

a. Pay costs associated with providing a telephone line or internet or similar connection that must be located as specified by the Lottery. Payment of the telephone line or internet or similar connection is nonrefundable after installation, except if the Lottery denies, through no fault of retailer, the installation of the on-line terminal. (5-8-09)

b. Pay the Lottery for the local monthly telephone or internet or similar charges per OLT as specified by the Lottery. The Lottery will pay for the mileage charges (if any) between the retailer's location and the Lottery's central site. (3-26-08)

c. Hold funds generated from the sale of on-line tickets in trust for the Lottery. At a time specified by the Lottery, the retailer must pay these funds to the Lottery plus the monthly communications charge specified above in Paragraph 204.09.b. of this rule, less: (3-26-08)

i. Prizes paid; (3-26-08)

ii. Any credit; and (3-26-08)

iii. The retailer discount. (3-26-08)

d. Locate the OLT within the retailer's premises at a point-of-sale location approved by the Lottery. The retailer is prohibited from moving an OLT unless the retailer follows the procedures established by the Director, including reimbursing the State Lottery for any telephone or internet or similar charges associated with the change of OLT location if the retailer requested the change. (3-26-08)

e. Provide dedicated AC power to within approximately five (5) feet of the terminal. Dedicated AC power means that there is no other equipment on the line that is to be used for the on-line terminal. The retailer is responsible for all costs associated with providing dedicated AC power. The Lottery will provide a schematic of outlet requirements to the retailer's electrical contractor. (3-26-08)

f. Sell all Lottery games, including but not limited to instant game tickets offered by the Lottery. The retailer agrees to continue the sale of instant tickets from all cash registers or other points of purchase. (3-26-08)

g. Conduct the sale of on-line tickets during all hours and days that the retailer's business is open and the on-line system is functioning. The retailer must post the hours that redemption of winning tickets may take place if these hours are different from the retailer's normal business hours. The retailer must monitor ticket supply levels

and give timely notice when any item is in short supply. (3-26-08)

h. Post winning numbers prominently where tickets are sold as soon as possible following the drawing. (3-26-08)

i. Provide secure storage for OLT supplies and a secure area for the OLT. (3-26-08)

j. Exercise due diligence in the operation of the OLT and immediately notify the Lottery and the central computer facility of any telephone line, internet, radio, or OLT malfunction, such as the issuance of invalid on-line Lottery ticket, inability to sell or redeem an on-line ticket, and non-issuance of an on-line ticket. The retailer is prohibited from performing mechanical or electrical maintenance on the OLT. (3-26-08)

k. Replace ribbons and on-line or instant ticket stock and clear paper jams as required for the OLT per the instructions provided by the Lottery. (3-26-08)

l. Pay, without reimbursement, all electricity charges in connection with the operation of OLT. (3-26-08)

10. Payment of Prizes by On-Line Retailers. (3-26-08)

a. An on-line retailer must pay to the ticket bearer on-line games prizes of less than six hundred dollars (\$600) for any validated claims presented to that on-line retailer. These prizes must be paid during all normal business hours of the on-line retailer, unless redemption hours differ from normal business hours that have been posted pursuant to Paragraph 204.09.g. of this rule, provided, that the on-line system is operational and claims can be validated. (3-26-08)

b. An on-line retailer may pay prizes in cash or by business check, certified check, money order, or any combination thereof. An on-line retailer that pays a prize with a check that is dishonored may be subject to suspension or termination of its contract. (3-26-08)

11. Retailer Settlement. (3-26-08)

a. The Director may require on-line retailers to establish an account for deposit of monies derived from on-line games with a financial institution that has the capability of electronic funds transfer (EFT). (3-26-08)

b. The amount deposited must be sufficient to cover monies due the Lottery. The Lottery will withdraw by EFT the amount due the Lottery on the day specified by the Director. If the day specified for withdrawal falls on a state holiday, withdrawal may be delayed until the next business day. (3-26-08)

12. Prize Rights Unassignable. No right of any person to a prize drawn shall be assignable, except that payment of any prize drawn may be paid to the estate of a deceased prize winner, and that any person may be paid the prize to which the winner is entitled pursuant to an appropriate judicial order. The Director will be discharged of all liability upon payment of a prize pursuant to this rule. (3-26-08)

13. Payment of Prizes to Persons Under Eighteen Years of Age. If a person entitled to a prize for a winning ticket is under the age of eighteen (18) years, the Director may direct payment of the prize to an adult member of the minor's family or to the minor's guardian by a check or draft payable to the adult member of the minor's family or to the minor's guardian. The adult member of the minor's family or the minor's guardian will have the same duties and powers as a person designated as a custodian in accordance with Idaho Law. For purposes of this Subsection the terms "adult member of a minor's family" and "guardian of a minor" have the same meaning

as in the Idaho Gifts to Minors Law. The Director will be discharged of all liability upon payment of a prize to a minor pursuant to this rule. (3-26-08)

14. Prizes Payable After Death or Disability of Owner. (3-26-08)

a. All prizes, and portions of prizes, that remain unpaid at the time of the prize winner's death will be payable to the personal representative of the prize winner's estate once satisfactory evidence of the personal representative's appointment has been provided, and the Director is satisfied that payment to the personal representative is lawful and proper. The Director may rely on a certified copy of a court order appointing of a personal representative (or similar person responsible for the prize winner's estate, whether denominated an administrator, executor, executrix, or other representative of the prize winner's estate) or may petition the court to determine the proper payee. Payment to the personal representative of the estate of the deceased owner of any prize winnings will absolve the Director and the Lottery's employees of any further liability for payment of prize winnings. (3-26-08)

b. The Lottery may petition any court of competent jurisdiction for a determination of the rightful payee of any prize winnings that are or may be due to a person under a disability including, but not limited to, minority, mental deficiency, physical or mental incapacity. (3-26-08)

15. Discharge of State Lottery Upon Payment. The state of Idaho, its agents, officers, employees and representatives, the Lottery, its Director, agents, officers, employees and representatives shall be discharged of all liability upon payment of a prize or any one (1) installment thereof to the holder of any winning Lottery ticket or in accordance with the information set forth on the claim form supplied by the Director. If there is a conflict between the information on a winning Lottery ticket and the information on the claim form, the Lottery may rely on the claim form after the ticket for which it has been filed has been validated as a winning ticket and, in so doing, it will be relieved of all responsibility and liability in the payment of a prize in accordance with the information set forth therein. The Lottery's decisions and judgments in respect to the determination of a winning ticket or of any other dispute arising from payment or awarding of prizes will be final and binding upon all participants in the Lottery unless otherwise provided by law or these rules. If a question arises concerning the winning ticket, a claim form, the payment, or the awarding of any prize, the Lottery may deposit the prize winnings into an escrow fund until it determines the controversy and reaches a decision, or it may petition a court of competent jurisdiction for instructions and a resolution of the controversy. (3-26-08)

16. Disclosure. The Lottery may use the names, addresses, and photographs of winners in any Lottery promotional or publicity campaign. The address used will not contain the winner's street or house number without the winner's consent. The Lottery may condition payment of the prize upon agreement to these terms and conditions. (3-26-08)