

NEW YORK

AGRICULTURE AND MARKETS LAW

ARTICLE 24. PROMOTION OF AGRICULTURE AND DOMESTIC ARTS; AGRICULTURAL SOCIETIES

Sec. 288. Gambling; obscene shows; state police enforcement.

No immoral, lewd, obscene or indecent show or exhibition, and no gambling device or devices, instrument or contrivance in the operation of which bets are laid or wagers made, wheel of fortune, or game of chance, shall be permitted upon the grounds during the annual meeting, fair or exposition of any county agricultural society or town or other agricultural society, and it shall be the duty of the state police to enforce this prohibition. This prohibition shall not be construed to prohibit horse racing, or tests or trials of skill.

ALCOHOLIC BEVERAGE CONTROL LAW

ARTICLE 8. GENERAL PROVISIONS

S 105. Provisions governing licensees to sell at retail for consumption off the premises.

1. No retail license to sell liquors and/or wines for consumption off the premises shall be granted for any premises, unless the applicant shall be the owner thereof, or shall be in possession of said premises under a lease, in writing, for a term not less than the license period except, however, that such license may thereafter be renewed without the requirement of a lease as herein provided. This subdivision shall not apply to premises leased from government agencies, as defined under subdivision twelve-b of section three of this chapter; provided, however, that the appropriate administrator of such government agency provides some form of written documentation regarding the terms of occupancy under which the applicant is leasing said premises from the government agency for presentation to the state liquor authority at the time of the license application. Such documentation shall include the terms of occupancy between the applicant and the government agency, including, but not limited to, any short-term leasing agreements or written occupancy agreements. 2. No premises shall be licensed to sell liquors and/or wines at retail for off premises consumption, unless said premises shall be located in a store, the principal entrance to which shall be from the street level and located on a public thoroughfare in premises which may be occupied, operated or conducted for business, trade or industry or on an arcade or sub-surface thoroughfare leading to a railroad terminal. There may be not more than one additional entrance which shall be from the street level and located on and giving access to and from a public or private parking lot or parking area having space for not less than five automobiles. 3. No retail license to sell liquor and/or wine for off-premises consumption shall be granted for any premises which shall be located on the same street or avenue, and within two hundred feet of a building occupied exclusively as a school, church, synagogue or other place of worship; the measurements to be taken in a straight line from the center of the nearest entrance to the building used for such school, church, synagogue or other place of worship to the center of the nearest entrance of the premises to be licensed; except, however, that no license shall be denied to any premises at which a license under this chapter has been in existence continuously from a date prior to the date when a building on the same street or avenue and within two hundred feet of said premises has been occupied exclusively as a school, church, synagogue or other place of worship. Within the context of this subdivision, the word "entrance" shall mean a door of a school, of a house of worship, or of the premises sought to be licensed, regularly used to give ingress to students of the school, to the general public attending the place of worship, and to patrons or guests of the premises proposed to be licensed, except that where a school or house of worship is set back from a public thoroughfare, the walkway or stairs leading to any such door shall be deemed an entrance; and the measurement shall be taken to the center of the walkway or stairs at the point where it meets the building line or public thoroughfare. A door which has no exterior hardware, or

which is used solely as an emergency or fire exit, or for maintenance purposes, or which leads directly to a part of a building not regularly used by the general public or patrons, is not deemed an "entrance". 5. No retail licensee of liquor and/or wine for off-premises consumption shall keep upon the licensed premises any liquors and/or wines in any cask, barrel, keg, hogshead or other container, except in the original sealed package, as received from the manufacturer or wholesaler. Such containers shall have affixed thereto such labels as may be required by the rules of the liquor authority, together with all necessary federal revenue and New York state excise tax stamps, as required by law. Such containers shall not be opened nor its contents consumed on the premises where sold, except for the purpose of wine tasting or sampling by any person pursuant to authorization to conduct such a sampling or tasting pursuant to subdivision two of section seventy-six of this chapter except those to whom sales are prohibited in section sixty-five of this chapter. 6. Each person licensed to sell liquor and/or wine for off-premises consumption shall have painted on the front window of the licensed premises, the name of the licensee together with the inscription, "New York State Retail Liquor or Wine Store License No.," as the case may be, in uniform letters not less than three and one-half inches in height. 7. No sign of any kind printed, painted or electric, advertising any brand of liquors or wines shall be permitted on the exterior or interior of such premises, except by permission of the liquor authority. 8. No retail licensee, for off-premises consumption, shall transport liquors or wines in any vehicle owned and operated or hired and operated by such retail licensee, for off-premises consumption, except liquors and wines transported to the home of a purchaser not to be resold by the purchaser, unless there shall be attached to or inscribed upon both sides of such vehicle a sign, showing the name and address of the licensee together with the following inscription, "New York State Retail Liquor or Wine Store License No.," as the case may be, in uniform letters not less than three and one-half inches in height, except deliveries may be made in passenger type vehicles owned by the licensee and operated by the licensee or his agent, or hired by the licensee and operated by the licensee or his agent, provided the person making the delivery shall have upon his person while so delivering a photostatic copy of the current license issued by the authority. In lieu of such sign, a retail licensee may have in the cab of such vehicle a photostatic copy of its current license issued by the authority, and such copy duly authenticated by the authority. 9. No retail licensee for off-premises consumption shall deliver any liquors or wines except in vehicles owned and operated by such licensee, or hired and operated by such licensee from a trucking or transportation company registered with the liquor authority, and shall only make such deliveries at the premises of the purchaser. 10. (a) Each retail licensee of liquor and/or wine for off-premises consumption shall have conspicuously displayed within the interior of the licensed premises where sales are made and where it can be readily inspected by consumers a printed price list of the liquors and/or wines offered for sale therein; and no liquor and/or wine shall be sold except at the price set forth in such list; (b) No screen, blind, curtain, partition, article or thing shall be permitted in the windows or upon the doors of such licensed premises, which shall prevent a clear view into the interior of such licensed premises from the sidewalk, at all times; and (c) No booth, screen, partition or other obstruction shall be permitted in the interior of said licensed premises. 11. No retail licensee of liquor and/or wine for off-premises consumption shall keep or permit to be kept upon the licensed premises, any liquors and/or wines in any unsealed bottle or other unsealed container, except for the purpose of wine tasting or sampling by any person pursuant to authorization to conduct such a sampling or tasting pursuant to subdivision two of section seventy-six of this chapter except those to whom sales are prohibited in section sixty-five of this chapter. 12. No retail licensee of liquor and/or wine for off-premises consumption shall sell or deliver any liquors and/or wines to any person with knowledge of, or with reasonable cause to believe, that the person to whom such liquors and/or wines are so sold or delivered, has acquired the same for the purpose of peddling them from place to place, or of selling or giving them away in violation of the provisions of this chapter or in violation of the rules and regulations of the liquor authority. 14. No premises licensed to sell liquor and/or wine for off-premises consumption shall be permitted to remain open: (a) On Sunday. (b) On any other day between midnight and eight o'clock antemeridian. (c) On the twenty-fifth day of December, known as Christmas day, and if any such day is Sunday, the next day thereafter. In any community where daylight saving time is in effect, such time shall be deemed the standard time for the purpose of this law. 15. Each retail licensee for off-premises consumption shall keep and maintain upon the licensed premises, adequate books and records of all transactions involving the business transacted by such licensee, which shall show the amount of liquors and wines, purchased by such licensee together with the names, license numbers and places of business of the persons from whom the same were purchased, and the amount involved in such purchases, as well as the amount of liquors or wines, sold by such licensee, and the amount involved in each sale. Such books and records shall be available for inspection by any authorized

representative of the liquor authority. 16. No retail licensee to sell liquors and/or wines for off-premises consumption shall be interested, directly or indirectly, in any premises where liquors, wines or beer are manufactured or sold at wholesale or any other premises where liquor or wine is sold at retail for off-premises consumption, by stock ownership, interlocking directors, mortgage or lien on any personal or real property or by any other means. Any lien, mortgage or other interest or estate, however, now held by such retailer on or in the personal or real property of such manufacturer or wholesaler, which mortgage, lien, interest or estate was acquired on or before December thirty-first, nineteen hundred thirty-two, shall not be included within the provisions of this subdivision; provided, however, the burden of establishing the time of the accrual of the interest comprehended by this subdivision, shall be upon the person who claims to be entitled to the protection and exemption afforded hereby. 17. No retail licensee for off-premises consumption shall make or cause to be made any loan to any person engaged in the manufacture or sale of liquors, wines or beer at wholesale. No retail licensee to sell liquors and/or wines for off-premises consumption shall make or cause to be made any loan to any person engaged in the manufacture or sale of liquors, wines or beer at wholesale or to any person engaged in the sale of liquors and/or wines at retail for off-premises consumption. 18. A drug store holding a permit to sell liquors and/or wines for off-premises consumption pursuant to this chapter shall be subject to the following conditions: (a) Liquors and/or wines sold by it shall not be consumed on the premises where sold or in any outbuilding, yard, booth or garden appertaining thereto or connected therewith. (b) Such permittee shall keep and maintain upon the licensed premises, adequate books and records, which shall show the amount of liquors and wines, in gallons, purchased by such permittee together with the names, license numbers and places of business, of the persons from whom the same were purchased and the amount involved in such purchases, which books and records shall be available for inspection by any authorized representative of the liquor authority. (c) No liquor or wine shall be displayed in any window of the premises designated in the drug store permit. (d) No drug store permittee shall use any placard or card advertising the sale of any liquor or wine unless such card, placard or advertisement shall conspicuously state that the sale of liquor or wine in the said premises designated in the drug store permit is limited to medicinal liquor to be sold by prescription only. 20. Each retail licensee of liquor and/or wine shall designate the price of each item of liquor or wine by attaching to or otherwise displaying immediately adjacent to each such item displayed in the interior of the licensed premises where sales are made a price tag, sign or placard setting forth the bottle price at which each such item is offered for sale therein. 21. No retail license to sell liquor and/or wine for consumption on the premises shall be granted for any public billiard or pocket billiard room, or for establishments of any description in which billiards is played or which maintains any apparatus or paraphernalia for the playing of billiards or pocket billiards and is conducted as a public place of business for profit. Notwithstanding any prohibition to the contrary, a license may be issued to an establishment wherein billiards or pocket billiards are played or may be played on a table which measures not more than three feet by six feet provided that not more than two such tables are in the establishment at any one time and further provided that the cue sticks used, and available for use, are made of light plexiglass or some similar light material. 22. No person licensed to sell alcoholic beverages at retail for off-premises consumption, shall suffer or permit any gambling, or offer any gambling on the licensed premises, or suffer or permit illicit drug activity on the licensed premises. The use of the licensed premises or any part thereof for the sale of lottery tickets, when duly authorized and lawfully conducted thereon, shall not constitute gambling within the meaning of this subdivision.

S 106. Provisions governing licensees to sell at retail for consumption on the premises.

1. No retail license for on-premises consumption shall be granted for any premises, unless the applicant shall be the owner thereof, or shall be in possession of said premises under a lease, in writing, for a term not less than the license period except, however, that such license may thereafter be renewed without the requirement of a lease as herein provided. This subdivision shall not apply to premises leased from government agencies, as defined under subdivision twelve-b of section three of this chapter; provided, however, that the appropriate administrator of such government agency provides some form of written documentation regarding the terms of occupancy under which the applicant is leasing said premises from the government agency for presentation to the state liquor authority at the time of the license application. Such documentation shall include the terms of occupancy between the applicant and the government agency, including, but not limited to, any short-term leasing agreements or written occupancy agreements. 2. No retail licensee for on-premises consumption, except corporations operating railroad cars or aircraft being

operated on regularly scheduled flights by a United States certificated airline or persons or corporations operating a hotel, as defined in subdivision fourteen of section three of this chapter, for exclusive use in the furnishing of room service in the manner prescribed by rule or regulation of the state liquor authority, shall keep upon the licensed premises any liquors and/or wines in any cask, barrel, keg, hogshead or other container, except in the original sealed package, containing quantities not to exceed one-half gallon each of liquor or fifteen gallons each of wine, and not less than twenty-five ounces each of liquor except cordials, liqueurs and bitters, or six ounces each of wine, as received from the manufacturer or wholesaler. Such containers shall have affixed thereto such labels as may be required by the rules of the liquor authority, together with all necessary federal revenue and New York state excise stamps as required by law. No retail licensee for on-premises consumption shall reuse, refill, tamper with, adulterate, dilute or fortify the contents of any container of alcoholic beverages as received from the manufacturer or wholesaler. 3. No retail licensee for on-premises consumption shall sell, deliver or give away, or cause or permit or procure to be sold, delivered or given away any liquors and/or wines for consumption off the premises where sold. 4. (a) No liquors and/or wines shall be sold or served in premises licensed under section sixty-four or clause (a) of subdivision six of section sixty-four-a of this chapter, except at tables where food may be served and except as provided by subdivision four of section one hundred. (b) No liquors and/or wines shall be sold or served in premises licensed under clause (b) of subdivision six of section sixty-four-a of this chapter, except at such times and upon such conditions and by the use of such facilities as the liquor authority, by regulation, may prescribe with due regard to the convenience of the public and the strict avoidance of sales prohibited by this chapter. 4-a. No beer shall be sold or served at a bar, counter or other similar contrivance unless a card, sign or plate, visible to the customer, upon which the name of the brewer is conspicuously and legibly displayed, is annexed or affixed to the tap or faucet from which the beer is drawn. 5. No alcoholic beverages shall be sold, offered for sale or given away upon any premises licensed to sell alcoholic beverages at retail for on-premises consumption, during the following hours: (a) Sunday, from four ante meridiem to twelve noon. (b) On any other day between four ante meridiem and eight ante meridiem. Unless otherwise approved by the authority pursuant to subdivision eleven of section seventeen of this chapter, where any rule has been adopted in a county on or before April first, nineteen hundred ninety-five, further restricting the hours of sale for alcoholic beverages, such restricted hours shall be the hours, during which the sale of alcoholic beverages at retail for on-premises consumption shall not be permitted within such county. Nor shall any person be permitted to consume any alcoholic beverages upon any such premises later than one-half hour after the start of the prohibited hours of sale provided for in this section. 6. No person licensed to sell alcoholic beverages shall suffer or permit any gambling on the licensed premises, or suffer or permit such premises to become disorderly. The use of the licensed premises, or any part thereof, for the sale of lottery tickets, playing of bingo or games of chance, or as a simulcast facility or simulcast theater pursuant to the racing, pari-mutuel wagering and breeding law, when duly authorized and lawfully conducted thereon, shall not constitute gambling within the meaning of this subdivision. 6-a. No retail licensee for on-premises consumption shall suffer or permit any person to appear on licensed premises in such manner or attire as to expose to view any portion of the pubic area, anus, vulva or genitals, or any simulation thereof, nor shall suffer or permit any female to appear on licensed premises in such manner or attire as to expose to view any portion of the breast below the top of the areola, or any simulation thereof. 6-b. No retail licensee for on-premises consumption shall suffer or permit any contest or promotion which endangers the health, safety, and welfare of any person with dwarfism. Any retail licensee in violation of this section shall be subject to the suspension or revocation of said licensee's license to sell alcoholic beverages for on-premises consumption. For the purposes of this section, the term "dwarfism" means a condition of being abnormally small which is caused by heredity, endocrine dysfunction, renal insufficiency or deficiency or skeletal diseases that result in disproportionate short stature and adult height of less than four feet ten inches. 7. No sign of any kind printed, painted or electric, advertising any brand of alcoholic beverages shall be permitted on the exterior or interior of said licensed premises, except by permission of the liquor authority first obtained. No other sign shall be permitted on the licensed premises, except by permission of the liquor authority first obtained. 8. A club or a luncheon club licensed to sell alcoholic beverages for on-premises consumption shall be permitted to sell such beverages only to its members and to their guests accompanying them. 9. No restaurant and no premises licensed to sell liquors and/or wines for on-premises consumption under clause (a) of subdivision six of section sixty-four-a of this chapter shall be permitted to have: (a) Any screen, blind, curtain, article or thing covering any part of any window on said licensed premises, which prevents a clear and full view into the interior of said premises from the sidewalk at all times; (b) Any swinging entrance door; (c) Any box, stall,

partition or any obstruction which prevents a full view of the entire room by every person present therein; and (d). Any opening or means of entrance or passageway for persons or things between the licensed premises and any other room or place in the building containing the licensed premises, or any adjoining or abutting premises, unless such licensed premises are in a building used as a hotel and serves as a dining room for guests of such hotel, or unless such premises are a bona fide restaurant with such access for patrons and guests from any part of such building or adjoining or abutting premises as shall serve public convenience in a reasonable and suitable manner; or unless such licensed premises are in a building owned or operated by any county, town, city, village or public authority or agency, in a park or other similar place of public accommodation. All glass in any window or door on said licensed premises shall be clear and shall not be opaque, colored, stained or frosted. 10. A vessel licensed to sell liquors and/or wines for on-premises consumption shall not be permitted to sell any liquors and/or wines, while said vessel is moored to a pier or dock, except that vessels sailing on established schedules shall be permitted to sell liquors and/or wines for a period of three hours prior to the regular advertised sailing time. 11. A railroad car or aircraft being operated on regularly scheduled flights by a United States certificated airline licensed to sell liquors and/or wines for on-premises consumption shall be permitted to sell liquors and/or wines only to passengers and while in actual transit, except that a railroad operating licensed cars shall be allowed to sell liquors and/or wines from portable carts located on station platforms located at Penn Station, Grand Central Station, Jamaica, Hunterspoint Avenue or Flatbush from which such licensed railroad cars depart. 12. Each retail licensee for on-premises consumption shall keep and maintain upon the licensed premises, adequate books and records of all transactions involving the business transacted by such licensee which shall show the daily amount of alcoholic beverages, in gallons, purchased by such licensee together with the names, license numbers and places of business of the persons from whom the same were purchased, the amount involved in such purchases, as well as the daily sales of alcoholic beverages made by such licensee. The liquor authority is hereby authorized to promulgate rules and regulations permitting an on-premises licensee operating two or more premises separately licensed to sell alcoholic beverages for on-premises consumption to inaugurate or retain in this state methods or practices of centralized accounting, bookkeeping, control records, reporting, billing, invoicing or payment respecting purchases, sales or deliveries of alcoholic beverages, or methods and practices of centralized receipt or storage of alcoholic beverages within this state without segregation or earmarking for any such separately licensed premises, wherever such methods and practices assure the availability, at such licensee's central or main office in this state, of data reasonably needed for the enforcement of this chapter. Such books and records shall be available for inspection by any authorized representative of the liquor authority. 13. No retail licensee for on-premises consumption shall be interested, directly or indirectly, in any premises where liquors, wines or beer are manufactured or sold at wholesale, by stock ownership, interlocking directors, mortgage or lien on any personal or real property or by any other means, except that liquors, wines or beer may be manufactured or sold wholesale by the person licensed as a manufacturer or wholesaler thereof on real property owned by an interstate railroad corporation or a United States certificated airline with a retail license for on-premises consumption, or on premises or with respect to a business constituting an overnight lodging and resort facility located wholly within the boundaries of the town of North Elba, county of Essex, township eleven, Richard's survey, great lot numbers two hundred seventy-eight, two hundred seventy-nine, two hundred eight, two hundred ninety-eight, two hundred ninety-nine, three hundred, three hundred eighteen, three hundred nineteen, three hundred twenty, three hundred thirty-five and three hundred thirty-six, and township twelve, Thorn's survey, great lot numbers one hundred six and one hundred thirteen, as shown on the Adirondack map, compiled by the conservation department of the state of New York - nineteen hundred sixty-four edition, in the Essex county atlas at page twenty-seven in the Essex county clerk's office, Elizabethtown, New York, provided that such facility maintains not less than two hundred fifty rooms and suites for overnight lodging, or on premises or with respect to the operation of a restaurant in an office building located in a city having a population of five hundred thousand or more and in which is located the licensed premises of such manufacturer or wholesaler, provided that the building, the interior of the retail premise and the rental therefor fully comply with the criteria set forth in paragraph two of subdivision three of section one hundred one of this article, or on premises or with respect to a business constituting the overnight lodging facility located wholly within the boundaries of that tract or parcel of land situated in the borough of Manhattan, city and county of New York, beginning at a point on the northerly side of west fifty-fourth street at a point one hundred feet easterly from the intersection of the said northerly side of west fifty-fourth street and the easterly side of seventh avenue; running thence northerly and parallel with the easterly side of seventh avenue one hundred feet five inches to the center line of the block; running thence easterly and parallel with

the northerly side of west fifty-fourth street and along the center line of the block fifty feet to a point; running thence northerly and parallel with the easterly side of seventh avenue one hundred feet five inches to the southerly side of west fifty-fifth street at a point distant one hundred fifty feet easterly from the intersection of the said southerly side of west fifty-fifth street and the easterly side of seventh avenue; running thence easterly along the southerly side of west fifty-fifth street thirty-one feet three inches to a point; running thence southerly and parallel with the easterly side of seventh avenue one hundred feet five inches to the center line of the block; running thence easterly along the center line of the block and parallel with the southerly side of west fifty-fifth street, one hundred feet; running thence northerly and parallel with the easterly side of seventh avenue one hundred feet five inches to the southerly side of west fifty-fifth street; running thence easterly along the southerly side of west fifty-fifth street twenty-one feet ten and one-half inches to a point; running thence southerly and parallel with the easterly side of seventh avenue one hundred feet five inches to the center line of the block; running thence westerly along the center line of the block and parallel with the northerly side of west fifty-fourth street three feet one and one-half inches; running thence southerly and parallel with the easterly side of seventh avenue one hundred feet five inches to the northerly side of west fifty-fourth street at a point distant three hundred feet easterly from the intersection of the said northerly side of west fifty-fourth street and the easterly side of seventh avenue; running thence westerly and along the northerly side of west fifty-fourth street two hundred feet to the point or place of beginning, provided that such facility maintains not less than four hundred guest rooms and suites for overnight lodging. Any lien, mortgage or other interest or estate now held by said retail licensee on or in the personal or real property of such manufacturer or wholesaler, which mortgage, lien, interest or estate was acquired on or before December thirty-first, nineteen hundred thirty-two, shall not be included within the provisions of this subdivision; provided, however, the burden of establishing the time of the accrual of the interest, comprehended by this subdivision shall be upon the person who claims to be entitled to the protection and exemption afforded hereby. 14. No retail licensee for on-premises consumption shall make or cause to be made any loan to any person engaged in the manufacture or sale of liquors, wines or beer at wholesale. 15. All retail licensed premises shall be subject to inspection by any peace officer, acting pursuant to his or her special duties, or police officer and by the duly authorized representatives of the liquor authority, during the hours when the said premises are open for the transaction of business. 16. No retail license to sell liquor and/or wine for consumption on the premises shall be granted for any public billiard or pocket billiard room, or for establishments of any description in which billiards is played or which maintains any apparatus or paraphernalia for the playing of billiards or pocket billiards and is conducted as a public place of business for profit. Notwithstanding any prohibition to the contrary, a license may be issued to an establishment wherein billiards or pocket billiards are played or may be played on a table which measures not more than three feet by six feet provided that not more than two such tables are in the establishment at any one time and further provided that the cue sticks used, and available for use, are made of light plexiglass or some similar light material. 17. Notwithstanding any other provision of law, a retail licensee for on-premises consumption that is a person or corporation operating a hotel shall be permitted to sell liquors, beer, and/or wines through a mechanical device or vending machine placed in the lodger's rooms and to which access to such device or machine is restricted by means of a locking device which requires the use of a key, magnetic card or similar device provided, however, that no such key, card or similar device shall be provided to any person under the age of twenty-one or to any person who is visibly intoxicated. S 106-a. Notice of arrest and convictions. 1. When an arrest for gambling activity, illicit drug activity, prostitution activity, or for a breach of the peace or for a crime of a violent nature, or for a crime of weapons possession occurs or where the activity or crime has taken place in a licensed premises, the arresting agency shall notify in writing, the authority and the district attorney of the county in which the licensed premises are located within two weeks of the arrest and set forth therein the name of the arrestee, the date of the arrest, the time of the arrest, the exact place of the arrest, the name of the licensee, the name and address of the licensed premises, the offense or offenses allegedly committed by the arrestee, the factual circumstances of the arrest, the name or names of the arresting officer, and such other information as may reasonably be required by the authority. 2. Such district attorney shall maintain a written record of all notices forwarded as required by subdivision one of this section and where the arrestee named in said notice is convicted of either the offense charged or a lesser included offense as defined by the penal law, the district attorney shall so notify the authority in writing.

S 123. Injunction for unlawful manufacturing, sale or consumption of liquor, wine or beer.

1. (a) If any person shall engage or participate or be about to engage or participate in the manufacturing or sale of liquor, wine or beer in this state without obtaining the appropriate license therefor, or shall traffic in liquor, wine or beer contrary to any provision of this chapter, or otherwise unlawfully, or shall traffic in illegal liquor, wine or beer, or, operating a place for profit or pecuniary gain, with a capacity for the assemblage of twenty or more persons, shall permit a person or persons to come to such place of assembly for the purpose of consuming alcoholic beverages without having the appropriate license therefor pursuant to section sixty-four-b of this chapter, the liquor authority or any taxpayer residing in the city, village or town in which such activity is or is about to be engaged or participated in or such traffic is being conducted, or the city, town or village, may present a verified petition or complaint to a justice of the supreme court at a special term of the supreme court of the judicial district in which such city, village or town is situated, for an order enjoining such person engaging or participating in such activity or from carrying on such business. Such petition or complaint shall state the facts upon which such application is based. Upon the presentation of the petition or complaint, the justice or court shall grant an order requiring such person to appear before such justice or court at or before a special term of the supreme court in such judicial district on the day specified therein, not more than ten days after the granting thereof, to show cause why such person should not be permanently enjoined from engaging or participating in such activity or from carrying on such business, or why such person should not be enjoined from carrying on such business contrary to the provisions of this chapter. A copy of such petition or complaint and order shall be served upon the person, in the manner directed by such order, not less than three days before the return day thereof. On the day specified in such order, the justice or court before whom the same is returnable shall hear the proofs of the parties and may, if deemed necessary or proper, take testimony in relation to the allegations of the petition or complaint. If the justice or court is satisfied that such person is about to engage or participate in the unlawful traffic in alcoholic beverages or has unlawfully manufactured or sold liquor, wine or beer without having obtained a license or contrary to the provisions of this chapter, or has trafficked in illegal liquor, wine or beer, or, is operating or is about to operate such place for profit or pecuniary gain, with such capacity, and has permitted or is about to permit a person or persons to come to such place of assembly for the purpose of consuming alcoholic beverages without having such appropriate license, an order shall be granted enjoining such person from thereafter engaging or participating in or carrying on such activity or business. If, after the entry of such an order in the county clerk's office of the county in which the principal place of business of the corporation or copartnership is located, or in which the individual so enjoined resides or conducts such business, and the service of a copy thereof upon such person, or such substituted service as the court may direct, such person, copartnership or corporation shall, in violation of such order, manufacture or sell liquor, wine or beer, or illegal liquor, wine, or beer, or permit a person or persons to come to such place of assembly for the purpose of consuming alcoholic beverages, such activity shall be deemed a contempt of court and be punishable in the manner provided by the judiciary law, and, in addition to any such punishment, the justice or court before whom or which the petition or complaint is heard, may, in his or its discretion, order the seizure and forfeiture of any liquor, wine or beer and any fixtures, equipment and supplies used in the operation or promotion of such illegal activity, including any bar, bar or refrigeration equipment, vending machines, gaming machines and jukeboxes, and such property shall be subject to forfeiture pursuant to the provisions of subdivision two of this section. Costs upon the application for such injunction may be awarded in favor of and against the parties thereto in such sums as in the discretion of the justice or court before whom or which the petition or complaint is heard may seem proper.

(b) The owner, lessor and lessee of a building, erection or place where alcoholic beverages are unlawfully manufactured, sold, consumed or permitted to be unlawfully manufactured, sold or consumed may be made respondents or defendants in the proceeding or action.

2. (a) This seized property shall be delivered by the peace officer, acting pursuant to his special duties or police officer having made the seizure to the custody of the authority or the district attorney of the county wherein the seizure was made as may be directed by the court, except that in the cities of New York and Buffalo, the seized property shall be delivered to the custody of the authority or of the police department of such cities, together with a report of all the facts and circumstances of the seizure. (b) It shall be the duty of the authority or such district attorney or, if the seizure was made in the cities of New York or Buffalo, of the authority or corporation counsel of such city, as the case may be, to inquire into the facts of the seizure so reported and if it appears probable that a forfeiture has been incurred, for the determination of which the institution of proceedings in the supreme court is necessary, to cause the proper proceedings to be commenced and prosecuted, at any time after thirty days from the date of seizure, to declare such forfeiture, unless, upon inquiry and examination the authority or such person, as the case may be, decides that such proceedings can

not probably be sustained or that the ends of public justice do not require that they should be instituted or prosecuted, in which case, the authority or such person shall cause such seized property to be returned to the owner thereof. (c) Notice of the institution of the forfeiture proceeding shall be served either (i) personally on the owners of the seized property or (ii) by registered mail to the owners' last known address and by publication of the notice once a week for two successive weeks in a newspaper published or circulated in the county wherein the seizure was made. (d) Forfeiture shall not be adjudged where the owners established by preponderance of the evidence that (i) the use of such seized property was not intentional on the part of any owner, or (ii) said seized property was used by any person other than an owner thereof, while such seized property was unlawfully in the possession of a person who acquired possession thereof in violation of the criminal laws of the United States, or of any state. (e) The authority or such person having custody of the seized property, after such judicial determination of forfeiture, shall, by a public notice of at least five days, sell such forfeited property at public sale. The net proceeds of any such sale, after deduction of the lawful expenses incurred, shall be paid into the general fund of the county wherein the seizure was made except that the net proceeds of the sale of property seized in the cities of New York and Buffalo shall be paid into the respective general funds of such cities. (f) Whenever any person interested in any property which is seized and declared forfeited under the provisions of this section files with a justice of the supreme court a petition for the recovery of such forfeited property, the justice of the supreme court may restore said forfeited property upon such terms and conditions as he deems reasonable and just, if the petitioner establishes either of the affirmative defenses set forth in paragraph (d) of subdivision two of this section and that the petitioner was without personal or actual knowledge of the forfeiture proceeding. If the petition be filed after the sale of the forfeited property, any judgment in favor of the petitioner shall be limited to the net proceeds of such sale, after deduction of the lawful expenses and costs incurred by the seizing party. (g) No suit or action under this section for wrongful seizure shall be instituted unless such suit or action is commenced within two years after the time when the property was seized.

CRIMINAL PROCEDURE LAW

PART THREE. SPECIAL PROCEEDINGS AND MISCELLANEOUS PROCEDURES

TITLE T. PROCEDURES FOR SECURING EVIDENCE BY MEANS OF COURT ORDER AND FOR SUPPRESSING EVIDENCE UNLAWFULLY OR IMPROPERLY OBTAINED

ARTICLE 700. EAVESDROPPING AND VIDEO SURVEILLANCE WARRANTS

S 700.05 Eavesdropping and video surveillance warrants; definitions of terms.

As used in this article, the following terms have the following meanings: 1. "Eavesdropping" means "wiretapping", "mechanical overhearing of conversation," or the "intercepting or accessing of an electronic communication", as those terms are defined in section 250.00 of the penal law, but does not include the use of a pen register or trap and trace device when authorized pursuant to article 705 of this chapter. 2. "Eavesdropping warrant" means an order of a justice authorizing or approving eavesdropping. 3. "Intercepted communication" means (a) a telephonic or telegraphic communication which was intentionally overheard or recorded by a person other than the sender or receiver thereof, without the consent of the sender or receiver, by means of any instrument, device or equipment, or (b) a conversation or discussion which was intentionally overheard or recorded, without the consent of at least one party thereto, by a person not present thereat, by means of any instrument, device or equipment; or (c) an electronic communication which was intentionally intercepted or accessed, as that term is defined in section 250.00 of the penal law. The term "contents," when used with respect to a communication, includes any information concerning the identity of the parties to such communications, and the existence, substance, purport, or meaning of that communication. The term "communication" includes conversation and discussion. 3-a. "Telephonic

communication", "electronic communication", and "intentionally intercepted or accessed" have the meanings given to those terms by subdivisions three, five, and six respectively, of section 250.00 of the penal law. 4. "Justice," except as otherwise provided herein, means any justice of an appellate division of the judicial department in which the eavesdropping warrant is to be executed, or any justice of the supreme court of the judicial district in which the eavesdropping warrant is to be executed, or any county court judge of the county in which the eavesdropping warrant is to be executed. When the eavesdropping warrant is to authorize the interception of oral communications occurring in a vehicle or wire communications occurring over a telephone located in a vehicle, "justice" means any justice of the supreme court of the judicial department or any county court judge of the county in which the eavesdropping device is to be installed or connected or of any judicial department or county in which communications are expected to be intercepted. When such a justice issues such an eavesdropping warrant, such warrant may be executed and such oral or wire communications may be intercepted anywhere in the state. 5. "Applicant" means a district attorney or the attorney general or if authorized by the attorney general, the deputy attorney general in charge of the organized crime task force. If a district attorney or the attorney general is actually absent or disabled, the term "applicant" includes that person designated to act for him and perform his official function in and during his actual absence or disability. 6. "Law enforcement officer" means any public servant who is empowered by law to conduct an investigation of or to make an arrest for a designated offense, and any attorney authorized by law to prosecute or participate in the prosecution of a designated offense. 7. "Exigent circumstances" means conditions requiring the preservation of secrecy, and whereby there is a reasonable likelihood that a continuing investigation would be thwarted by alerting any of the persons subject to surveillance to the fact that such surveillance had occurred. 8. "Designated offense" means any one or more of the following crimes: (a) A conspiracy to commit any offense enumerated in the following paragraphs of this subdivision, or an attempt to commit any felony enumerated in the following paragraphs of this subdivision which attempt would itself constitute a felony; (b) Any of the following felonies: assault in the second degree as defined in section 120.05 of the penal law, assault in the first degree as defined in section 120.10 of the penal law, reckless endangerment in the first degree as defined in section 120.25 of the penal law, promoting a suicide attempt as defined in section 120.30 of the penal law, criminally negligent homicide as defined in section 125.10 of the penal law, manslaughter in the second degree as defined in section 125.15 of the penal law, manslaughter in the first degree as defined in section 125.20 of the penal law, murder in the second degree as defined in section 125.25 of the penal law, murder in the first degree as defined in section 125.27 of the penal law, abortion in the second degree as defined in section 125.40 of the penal law, abortion in the first degree as defined in section 125.45 of the penal law, rape in the third degree as defined in section 130.25 of the penal law, rape in the second degree as defined in section 130.30 of the penal law, rape in the first degree as defined in section 130.35 of the penal law, sodomy in the third degree as defined in section 130.40 of the penal law, sodomy in the second degree as defined in section 130.45 of the penal law, sodomy in the first degree as defined in section 130.50 of the penal law, sexual abuse in the first degree as defined in section 130.65 of the penal law, unlawful imprisonment in the first degree as defined in section 135.10 of the penal law, kidnapping in the second degree as defined in section 135.20 of the penal law, kidnapping in the first degree as defined in section 135.25 of the penal law, custodial interference in the first degree as defined in section 135.50 of the penal law, coercion in the first degree as defined in section 135.65 of the penal law, criminal trespass in the first degree as defined in section 140.17 of the penal law, burglary in the third degree as defined in section 140.20 of the penal law, burglary in the second degree as defined in section 140.25 of the penal law, burglary in the first degree as defined in section 140.30 of the penal law, criminal mischief in the third degree as defined in section 145.05 of the penal law, criminal mischief in the second degree as defined in section 145.10 of the penal law, criminal mischief in the first degree as defined in section 145.12 of the penal law, criminal tampering in the first degree as defined in section 145.20 of the penal law, arson in the fourth degree as defined in section 150.05 of the penal law, arson in the third degree as defined in section 150.10 of the penal law, arson in the second degree as defined in section 150.15 of the penal law, arson in the first degree as defined in section 150.20 of the penal law, grand larceny in the fourth degree as defined in section 155.30 of the penal law, grand larceny in the third degree as defined in section 155.35 of the penal law, grand larceny in the second degree as defined in section 155.40 of the penal law, grand larceny in the first degree as defined in section 155.42 of the penal law, robbery in the third degree as defined in section 160.05 of the penal law, robbery in the second degree as defined in section 160.10 of the penal law, robbery in the first degree as defined in section 160.15 of the penal law, unlawful use of secret scientific material as defined in section 165.07 of the penal law, criminal possession of stolen property in the fourth degree as

defined in section 165.45 of the penal law, criminal possession of stolen property in the third degree as defined in section 165.50 of the penal law, criminal possession of stolen property in the second degree as defined by section 165.52 of the penal law, criminal possession of stolen property in the first degree as defined by section 165.54 of the penal law, trademark counterfeiting in the first degree as defined in section 165.73 of the penal law, forgery in the second degree as defined in section 170.10 of the penal law, forgery in the first degree as defined in section 170.15 of the penal law, criminal possession of a forged instrument in the second degree as defined in section 170.25 of the penal law, criminal possession of a forged instrument in the first degree as defined in section 170.30 of the penal law, criminal possession of forgery devices as defined in section 170.40 of the penal law, falsifying business records in the first degree as defined in section 175.10 of the penal law, tampering with public records in the first degree as defined in section 175.25 of the penal law, offering a false instrument for filing in the first degree as defined in section 175.35 of the penal law, issuing a false certificate as defined in section 175.40 of the penal law, escape in the second degree as defined in section 205.10 of the penal law, escape in the first degree as defined in section 205.15 of the penal law, absconding from temporary release in the first degree as defined in section 205.17 of the penal law, promoting prison contraband in the first degree as defined in section 205.25 of the penal law, hindering prosecution in the second degree as defined in section 205.60 of the penal law, hindering prosecution in the first degree as defined in section 205.65 of the penal law, criminal possession of a weapon in the third degree as defined in subdivisions two, three, four and five of section 265.02 of the penal law, criminal possession of a weapon in the second degree as defined in section 265.03 of the penal law, criminal possession of a dangerous weapon in the first degree as defined in section 265.04 of the penal law, manufacture, transport, disposition and defacement of weapons and dangerous instruments and appliances defined as felonies in subdivisions one, two, and three of section 265.10 of the penal law, sections 265.11, 265.12 and 265.13 of the penal law, or prohibited use of weapons as defined in subdivision two of section 265.35 of the penal law, relating to firearms and other dangerous weapons; (c) Criminal possession of a controlled substance in the seventh degree as defined in section 220.03 of the penal law, criminal possession of a controlled substance in the sixth degree as defined in section 220.05 of the penal law, criminal possession of a controlled substance in the fifth degree as defined in section 220.06 of the penal law, criminal possession of a controlled substance in the fourth degree as defined in section 220.09 of the penal law, criminal possession of a controlled substance in the third degree as defined in section 220.16 of the penal law, criminal possession of a controlled substance in the second degree as defined in section 220.18 of the penal law, criminal possession of a controlled substance in the first degree as defined in section 220.21 of the penal law, criminal sale of a controlled substance in the fifth degree as defined in section 220.31 of the penal law, criminal sale of a controlled substance in the fourth degree as defined in section 220.34 of the penal law, criminal sale of a controlled substance in the third degree as defined in section 220.39 of the penal law, criminal sale of a controlled substance in the second degree as defined in section 220.41 of the penal law, criminal sale of a controlled substance in the first degree as defined in section 220.43 of the penal law, criminally possessing a hypodermic instrument as defined in section 220.45 of the penal law, criminal possession of marijuana in the first degree as defined in section 221.30 of the penal law, criminal sale of marijuana in the first degree as defined in section 221.55 of the penal law, promoting gambling in the second degree as defined in section 225.05 of the penal law, promoting gambling in the first degree as defined in section 225.10 of the penal law, possession of gambling records in the second degree as defined in section 225.15 of the penal law, possession of gambling records in the first degree as defined in section 225.20 of the penal law, and possession of a gambling device as defined in section 225.30 of the penal law; (d) Commercial bribing, commercial bribe receiving, bribing a labor official, bribe receiving by a labor official, sports bribing and sports bribe receiving, as defined in article one hundred eighty of the penal law; (e) Criminal usury, as defined in article one hundred ninety of the penal law; (f) Bribery in the third degree, bribery in the second degree, bribery in the first degree, bribe receiving in the third degree, bribe receiving in the second degree, bribe receiving in the first degree, bribe giving for public office and bribe receiving for public office, as defined in article two hundred of the penal law; (g) Bribing a witness, bribe receiving by a witness, bribing a juror and bribe receiving by a juror, as defined in article two hundred fifteen of the penal law; (h) Promoting prostitution in the first degree, as defined in section 230.32 of the penal law, promoting prostitution in the second degree, as defined by subdivision one of section 230.30 of the penal law; (i) Riot in the first degree and criminal anarchy, as defined in article two hundred forty of the penal law; (j) Eavesdropping, as defined in article two hundred fifty of the penal law; (k) Any of the acts designated as felonies in subdivisions two and four of section four hundred eighty-one of the tax law, which section relates to penalties under the tax on cigarettes imposed by

article twenty of such law, and any of the acts designated as felonies in subdivision c of section 11-1317 of the administrative code of the city of New York, which section relates to penalties under the cigarette tax imposed by chapter thirteen of title eleven of such code. (l) Scheme to defraud in the first degree as defined in article one hundred ninety of the penal law. (m) Any of the acts designated as felonies in section three hundred fifty-two-c of the general business law. (n) Any of the acts designated as felonies in title twenty-seven of article seventy-one of the environmental conservation law. (o) Money laundering in the first degree as defined in section 470.15 of the penal law, and money laundering in the second degree as defined in section 470.10 of such law where the monetary instrument or instruments are the proceeds of specified criminal conduct which itself constitutes a designated offense within the meaning of this subdivision. 9. "Video surveillance" means the intentional visual observation by law enforcement of a person by means of a television camera or other electronic device that is part of a television transmitting apparatus, whether or not such observation is recorded on film or video tape, without the consent of that person or another person thereat and under circumstances in which such observation in the absence of a video surveillance warrant infringes upon such person's reasonable expectation of privacy under the constitution of this state or of the United States. 10. "Video surveillance warrant" means an order of a justice authorizing or approving video surveillance.

EXECUTIVE LAW

ARTICLE 19-B. STATE BINGO CONTROL COMMISSION

S 430. Short title.

This article shall be known and may be cited as the bingo control law. S 431. Purpose of article. The purpose of this article is to implement section nine of article one of the state constitution, as amended by vote of the people at the general election in November, nineteen hundred fifty-seven. The legislature hereby declares that the raising of funds for the promotion of bona fide charitable, educational, scientific, health, religious, civic and patriotic causes and undertakings, where the beneficiaries are indefinite, is in the public interest. It hereby finds that, as conducted prior to the enactment of this article, bingo was the subject of exploitation by professional gamblers, promoters, and commercial interests. It is hereby declared to be the policy of the legislature that all phases of the supervision, licensing and the regulation of bingo and of the conduct of bingo games, should be closely controlled and that the laws and regulations pertaining thereto should be strictly construed and rigidly enforced; that the conduct of the game and all attendant activities should be so regulated and adequate controls so instituted as to discourage commercialization in all its forms, including the rental of commercial premises for bingo games, and to ensure a maximum availability of the net proceeds of bingo exclusively for application to the worthy causes and undertakings specified herein; that the only justification for this article is to foster and support such worthy causes and undertakings, and that the mandate of section nine of article one of the state constitution, as amended, should be carried out by rigid regulation to prevent commercialized gambling, prevent participation by criminal and other undesirable elements and prevent the diversion of funds from the purposes herein authorized. S 432. Definitions. As used in this article, the following terms shall have the following meanings: 1. "Control commission" or "commission" shall mean the state racing and wagering board. 2. "Municipality" shall mean any city, town or village within this state. 3. "Bingo" or "game" shall mean a specific game of chance, commonly known as bingo or lotto, in which prizes are awarded on the basis of designated numbers or symbols on a card conforming to numbers or symbols selected at random. 4. "Authorized organization" shall mean any bona fide religious or charitable organization or bona fide educational, fraternal, civic or service organization or bona fide organization of veterans, volunteer firefighters, or volunteer ambulance workers, which by its charter, certificate of incorporation, constitution, or act of the legislature, shall have as its dominant purpose or purposes one or more of the lawful purposes as defined in the bingo licensing law, provided that each shall operate without profit to its members, and provided that each such organization has engaged in serving one or more of the lawful purposes as defined in the bingo licensing law, article fourteen-H of the general municipal law, for a period of one year immediately prior to applying for a license under the licensing law. 5. "Bingo licensing law" shall mean article fourteen-h of the general municipal law. S 434. Utilization of other agency assistance. To

effectuate the purposes of this article, the governor may authorize any department, division, board, bureau, commission or agency of the state or of or in any political subdivision thereof to provide such facilities, assistance and data as will enable the commission properly to carry out its activities and effectuate its purposes hereunder. S 435. Powers and duties of the commission. 1. The commission shall have the power and it shall be its duty to: (a) Supervise the administration of the bingo licensing law and adopt, amend and repeal rules and regulations governing the issuance and amendment of licenses thereunder and the conducting of games under such licenses, which rules and regulations shall have the force and effect of law and shall be binding upon all municipalities issuing licenses, and upon licensees thereunder and licensees of the commission, to the end that such licenses shall be issued to qualified licensees only and that said games shall be fairly and properly conducted for the purposes and in the manner in the said bingo licensing law prescribed and to prevent the games thereby authorized to be conducted from being conducted for commercial purposes or purposes other than those therein authorized, participated in by criminal or other undesirable elements and the funds derived from the games being diverted from the purposes authorized, and, to provide uniformity in the administration of said law throughout the state, the commission shall prescribe forms of application for licenses, licenses, amendment of licenses, reports of the conduct of games and other matters incident to the administration of such law; (b) Conduct, anywhere within the state, investigations of the administration, enforcement and potential or actual violations of the bingo licensing law and of the rules and regulations of the commission; (c) Review all determinations and actions of the municipal governing body in issuing an initial license, and it may review the issuance of subsequent licenses and, after hearing, revoke those licenses which do not in all respects meet the requirements of this article, article fourteen-h of the general municipal law and the rules and regulations of the commission; (d) Suspend or revoke a license, after hearing, for any violation of the provisions of this article, article fourteen-h of the general municipal law or the rules and regulations of the commission; (e) Hear appeals from the determinations and action of the municipal governing body in connection with the refusing to issue licenses, the suspension and revocation of licenses and the imposition of fines in the manner prescribed by law and the action and determination of the commission upon any such appeal shall be binding upon the municipal governing body and all parties thereto; (f) Initiate prosecutions for violations of this article and of the bingo licensing law; (g) Carry on continuous study of the operation of the bingo licensing law to ascertain from time to time defects therein jeopardizing or threatening to jeopardize the purposes of this article, and to formulate and recommend changes in such law and in other laws of the state which the commission may determine to be necessary for the realization of such purposes, and to the same end to make a continuous study of the operation and administration of similar laws which may be in effect in other states of the United States. (h) Supervise the disposition of all funds derived from the conduct of bingo by authorized organizations not currently licensed to conduct such games; (i) Issue an identification number to an applicant authorized organization if it shall determine that the applicant satisfies the requirements of the bingo licensing law and the rules and regulations. 2. (a) The commission shall have the power to issue or, after hearing, refuse to issue a license permitting a person, firm or corporation to sell or distribute to any other person, firm or corporation engaged in business as a wholesaler, jobber, distributor or retailer of all cards, boards, sheets, pads and all other supplies, devices and equipment designed for use in the play of bingo by an organization duly licensed to conduct bingo games or to sell or distribute any such materials directly to such an organization. For the purposes of this section the words "sell or distribute" shall include, but shall not be limited to, the following activities; offering for sale, receiving, handling, maintaining, storing the same on behalf of such an organization, and distributing or providing the same to such an organization. Each such license shall be valid for one year. (b) No person, firm or corporation, other than an organization which is or has been during the preceding twelve months duly licensed to conduct bingo games, shall sell or distribute bingo supplies or equipment without having first obtained a license therefor upon written application made, verified and filed with the commission in the form prescribed by the rules and regulations of the commission. In each such application for a license under this section shall be stated the name and address of the applicant; the names and addresses of its officers, directors, shareholders or partners; the amount of gross receipts realized on the sale or distribution of bingo supplies and equipment to duly licensed organizations during the last preceding calendar or fiscal year, and such other information as shall be prescribed by such rules and regulations. The fee for such licenses shall be a sum equal to twenty-five dollars plus an amount based upon the gross sales, if any, of bingo equipment and supplies to authorized organizations by the applicant during the preceding calendar year, or fiscal year if the applicant maintains his accounts on a fiscal year basis, and determined in accordance with the following schedule: gross sales of \$1,000 to \$4,999.....\$10.00 gross sales of \$5,000 to \$19,999.....\$50.00 gross

sales of \$20,000 to \$49,999.....\$200.00 gross sales of \$50,000 to \$100,000.....\$500.00 gross sales in excess of \$100,000.....\$1,000.00 (c) The following shall be ineligible for such a license: (1) a person convicted of a crime who has not received a pardon, a certificate of good conduct or a certificate of relief from disabilities; (2) a person who is or has been a professional gambler or gambling promoter or who for other reasons is not of good moral character; (3) a public officer or employee; (4) an operator or proprietor of a commercial hall duly licensed under the bingo licensing law; (5) a firm or corporation in which a person defined in subdivision (1), (2), (3) or (4) above, or a person married or related in the first degree to such a person, has greater than a ten per centum proprietary, equitable or credit interest or in which such a person is active or employed. (d) The control commission shall have power to examine or cause to be examined the books and records of any applicant for a license, or any licensee, under this section. Any information so received shall not be disclosed except so far as may be necessary for the purpose of carrying out the provisions of this article and article fourteen-h of the general municipal law. (e) Any solicitation of an organization licensed to conduct bingo games, to purchase or induce the purchase of bingo supplies and equipment, or any representation, statement or inquiry designed or reasonably tending to influence such an organization to purchase the same, other than by a person licensed or otherwise authorized pursuant to this section shall constitute a violation of this section. (f) Any person who willfully shall make any material false statement in any application for a license authorized to be issued under this article or who willfully shall violate any of the provisions of this section or of any license issued hereunder shall be guilty of a misdemeanor and, in addition to the penalties in such case made and provided, shall forfeit any license issued to him or it under this section and be ineligible to apply for a license under this section for one year thereafter. (g) At the end of the license period, a recapitulation shall be made as between the licensee and the commission in respect of the gross sales actually recorded during the license period and the fee paid therefor, and any deficiency of fee thereby shown to be due shall be paid by the licensee and any excess of fee thereby shown to have been paid shall be credited to said licensee in such manner as the commission by the rules and regulations shall prescribe. 3. The commission shall have the power to approve and establish a standard set of bingo cards comprising a consecutively numbered series and shall by its rules and regulations prescribe the manner in which such cards are to be reproduced and distributed to licensed authorized organizations. The sale or distribution to a licensed authorized organization of any card or cards other than those contained in the standard set of bingo cards shall constitute a violation of this section. Licensed authorized organizations shall not be required to use nor to maintain such cards serially excepting that the same may be required in the conduct of limited period bingo games. S 436. Hearings; immunity. 1. A hearing upon any investigation or review authorized by this article or by article fourteen-h of the general municipal law may be conducted by two or more members of the commission or by a hearing officer duly designated by the commission, as the commission shall determine. 2. A person who has violated any provision of this article or article fourteen-h of the general municipal law, or of the rules and regulations of the commission, or any term of any license issued under said articles or said rules and regulations, is a competent witness against another person so charged. In any hearing upon any investigation or review authorized by this article or article fourteen-h of the general municipal law, for or relating to a violation of any provision of said articles or of the rules and regulations of the commission or of the term of any such license, the commission, may confer immunity upon such witness in accordance with the provisions of section 50.20 of the criminal procedure law. Such immunity shall be conferred only upon the vote of at least three members of the commission, and only after affording the attorney general and the appropriate district attorney a reasonable opportunity to be heard with respect to any objections which they or either of them may have to the granting of such immunity. S 437. Place of investigations and hearings; witnesses; books and documents. The commission may conduct investigations and hearings within or without the state and shall have power to compel the attendance of witnesses, the production of books, records, documents and other evidence by the issuance of a subpoena signed by a member of the commission. S 438. Privilege against self-incrimination. The willful refusal to answer a material question or the assertion of privilege against self-incrimination during a hearing upon any investigation or review authorized by this article or by article fourteen-h of the general municipal law by any licensee or any person identified with any licensee as an officer, director, stockholder, partner, member, employee or agent thereof shall constitute sufficient cause for the revocation or suspension of any license issued under this article or under the licensing law, as the commission or as the municipal governing body may determine. S 439. Filing and availability of rules and regulations. A copy of every rule and regulation adopted and promulgated by the commission shall be filed in the office of the secretary of state before it shall become effective and copies thereof shall be made available to the various municipalities operating under the bingo licensing law. S 439-a. Municipality to file

copies of local laws and ordinances; reports. Each municipality in which the bingo licensing law shall be adopted shall file with the commission a copy of each local law or ordinance enacted pursuant thereto within ten days after the same has been approved by a majority of the electors voting on a proposition submitted at a general or special election, or within ten days after the same has been amended or repealed by the common council or other local legislative body, and on or before February first of each year, and at any other time or times which the commission may determine, make a report to the commission of the number of licenses issued therein under the bingo licensing law, the names and addresses of the licensees, the aggregate amount of license fees collected, the names and addresses of all persons detected of violating the bingo licensing law, this law or the rules and regulations adopted by the commission pursuant hereto, and of all persons prosecuted for such violations and the result of each such prosecution, the penalties imposed thereon during the preceding calendar year, or the period for which the report is required, which report may contain any recommendations for improvement of the bingo licensing law or the administration thereof which the governing body of the municipality shall deem to be desirable.

ARTICLE 35. DIVISION OF CRIMINAL JUSTICE SERVICES

S 837-m. Reporting duties of law enforcement departments with respect to missing children.

The chief of every police department, each county sheriff and the superintendent of state police shall report, at least semi-annually, to the division with respect to specified cases of missing children that are closed. Such reports shall be in the form and manner prescribed by the division and shall contain such information as the division deems necessary including, but not limited to, information regarding recovered children who were arrested, children who were the victims of criminal activity or exploitation and children who were found deceased and information regarding the alleged abductor or killer of such children. * NB There are 2 S's 837-m's * S 837-m*. Criminal history records search for certain employment, appointments, licenses or permits in the city of New York. 1. As used in this section: (a) "Department" shall mean the New York city department of investigation. (b) "Applicant" shall mean a person applying for: (1) employment with the city of New York in a position providing child day care services, as such term is defined in subdivision one of section three hundred ninety of the social services law, or providing such services through an entity pursuant to a contract between such entity and the city of New York to provide such services or providing such child day care services through an entity required to have a permit for such services issued by the health department of the city of New York; or (2) employment with the department, or appointment to a senior position in an office of an elected official or agency of the city of New York or of a public authority, board, committee, commission, or public benefit corporation, where such person is to be the subject of a background investigation pursuant to subdivisions (a) and (b) of section seven of executive order number sixteen of the mayor of the city of New York dated July twenty-sixth, nineteen hundred seventy-eight, as amended by section one of executive order seventy-two of the mayor of the city of New York dated April twenty-third, nineteen hundred eighty-four; or (3) mayoral appointment as a judge of the New York city criminal court or the New York city civil court or the family court of the state of New York within the city of New York; or (4) a license, certificate of approval, class A photo identification card or employment, pursuant to the following provisions of the administrative code of the city of New York which require the submission of fingerprints: A. Title 16-A: New York City Trade Waste Commission Section 16-508(b); B. Title 22: Fulton Fish Market Distribution Area and Other Seafood Distribution Areas, Section 22-216(a)(1); and C. Title 20: Regulation of Shipboard Gambling, Section 20-954(b)(1), as added to the administrative code of the city of New York by a nine-teen ninety-seven local law of the city of New York. 2. As a condition of eligibility for such licenses, certificate of approval, class A photo identification card, contract to provide services, or employment, the department, appointing or issuing agency shall obtain the applicant's fingerprints and submit such fingerprints to the division for purposes of determining the criminal history of the applicant. The department may submit two sets of fingerprints to the division. 3. The first set of fingerprints received by the division shall be used to identify the individual and to conduct a criminal history records search of the division's New York state files to determine whether such individual has been convicted of a criminal offense in this state. The division shall forward the second set of such individual's fingerprints to the federal bureau of investigation for the purpose of a nationwide criminal history record check to determine whether such applicant has been convicted of a criminal offense in any state or federal jurisdiction. 4. The division shall promptly transmit the reports of these New York state and

nationwide criminal records searches to the requesting department, appointing or issuing agency. Such reports, when received by the requesting department, appointing or issuing agency, shall be marked confidential and securely stored, and shall not be disclosed to any person other than the applicant, although the contents of the report may be disclosed to the agency or agencies whose consideration of such applicant prompted the ordering of such reports. 5. (a) Each applicant shall sign a release authorizing the department, appointing or issuing agency to submit such applicant's fingerprints to the division and to receive the results of such criminal history record searches supplied by the division and the federal bureau of investigation. Such release, a copy of which shall be supplied to the applicant, shall also advise the applicant that a criminal history record search will be conducted concerning the applicant and that he or she may obtain a copy of his or her criminal history record and seek correction of any information contained in such record pursuant to regulations promulgated by the division. (b) Each such applicant shall, in advance, make payment to the division of any reasonable fee required by law which is reasonably related to the cost of conducting the searches authorized by this section. All fingerprints supplied by the applicant shall be returned to the applicant upon termination or denial of the license, certificate of approval, class A photo identification card, contract to provide services, or employment in connection with which such fingerprints were obtained. * NB There are 2 S's 837-m's

GENERAL BUSINESS LAW

ARTICLE 23-A. FRAUDULENT PRACTICES IN RESPECT TO STOCKS, BONDS AND OTHER SECURITIES

S 352-e. Real estate syndication offerings.

1. (a) It shall be illegal and prohibited for any person, partnership, corporation, company, trust or association, or any agent or employee thereof, to make or take part in a public offering or sale in or from the state of New York of securities constituted of participation interests or investments in real estate, mortgages or leases, including stocks, bonds, debentures, evidences of interest or indebtedness, limited partnership interests or other security or securities as defined in section three hundred fifty-two of this article, when such securities consist primarily of participation interests or investments in one or more real estate ventures, including cooperative interests in realty, unless and until there shall have been filed with the department of law, prior to such offering, a written statement or statements, to be known as an "offering statement" or "prospectus" concerning the contemplated offering which shall contain the information and representations required by paragraph (b) of this subdivision unless the security offering is exempted hereunder or under section three hundred fifty-nine-f, subdivision two, of this article by rule or action of the attorney general. The term "real estate" as used in the paragraph shall not include mineral, oil or timber leases or properties, or buildings, structures, land or other realty housing or containing business offices or industry, owned or leased by the issuer, where the issuer is not primarily engaged in the business of buying and selling such building or other realty or leases or interests therein. The circulation or dissemination of a non-firm offer (including circulation or dissemination of a preliminary prospectus pursuant to section ten (b) of the securities act of nineteen hundred thirty-three, and the rules thereto appertaining) shall not constitute making or taking part in a public offering within the meaning of this section. (b) The detailed terms of the transaction; a description of the property, the nature of the interest, and how title thereto is to be held; the gross and net income for a reasonable period preceding the offering where applicable and available; the current gross and net income where applicable and available; the basis, rate and method of computing depreciation; a description of major current leases; the essential terms of all mortgages; the names, addresses and business background of the principals involved, the nature of their fiduciary relationship and their financial relationship, past, present and future, to the property offered to the syndicate and to those who are to participate in its management; the interests and profits of the promoters, offerors, syndicate organizers, officers, directors, trustees or general partners, direct and indirect, in the promotion and management of the venture; all restrictions, if any, on transfer of participants' interests; a statement as to what stock or other security involved in the transaction, if any, is non-voting; a statement as to what disposition will be made of the funds received and of the transaction if not consummated, which statement shall represent that all moneys received from the sale of such securities until actually employed in connection with the

consummation of the transaction as therein described, shall be kept in trust and that in the event insufficient funds are raised through the offering or otherwise to effectuate the purchase or purchases or other consummation of the contemplated transaction, or that the intended acquisition shall not be completed for any other reason or reasons, then such moneys, less such amounts actually employed in connection with the consummation of the transaction, shall be fully returned to the investor; which of the securities offered are unsecured; clearly distinguish between leasehold and fee ownership, between fact and opinion; a commitment to submit annual reports to all participants, including an annual balance sheet and profit and loss statement certified by an independent certified public accountant; clearly distinguish between those portions of promised distributions which are income and those which are a return of principal or capital; in the case of qualified leasehold condominiums, as defined in section three hundred thirty-nine-e of the real property law, a disclosure of the unique requirements imposed on the unit owners of such condominiums by the provisions of sections three hundred thirty-nine-bb and three hundred thirty-nine-cc of such law; and such additional information as the attorney general may prescribe in rules and regulations promulgated under subdivision six hereof as will afford potential investors, purchasers and participants an adequate basis upon which to found their judgment and shall not omit any material fact or contain any untrue statement of a material fact. (c) All advertising in connection with an offering of securities described in this subdivision shall be consistent with the representations and information required to be set forth as hereinbefore in this subdivision provided. 2. Unless otherwise provided by regulation issued by the attorney general, the offering statement or statements or prospectus required in subdivision one of this section shall be filed with the department of law at its office in the city of New York, prior to the public offering of the security involved. No offer, advertisement or sale of such securities shall be made in or from the state of New York until the attorney general has issued to the issuer or other offerer a letter stating that the offering has been filed. The attorney general, not later than thirty days after the submission of such filing, shall issue such a letter or, in the alternative, a notification in writing indicating deficiencies in the offering statement, statements or prospectus; provided, however, that in the case of a building or group of buildings to be converted to cooperative or condominium ownership which is occupied in whole or in part for residential purposes, such letter or notification shall be issued in not sooner than four months and not later than six months from the date of submission of such filing. The attorney general may also refuse to issue a letter stating that the offering statement or statements or prospectus has been filed whenever it appears that the offering statement or statements or prospectus does not clearly set forth the specific property or properties to be purchased, leased, mortgaged, or otherwise to be acquired, financed or the subject of specific investment with a substantial portion of the offering proceeds. 2-a. (a) For the purposes of this subdivision the following words shall have the following meanings: (i) "Plan". Every offering statement or prospectus submitted to the department of law for the conversion of a building or group of buildings or development from residential rental status to cooperative or condominium ownership, other than a plan governed by the provisions of either section three hundred fifty-two-eee or three hundred fifty-two-eeee of this chapter, or a plan for such conversion pursuant to article two, eight or eleven of the private housing finance law. (ii) "Non-purchasing tenant". A person who has not purchased under the plan and who is a tenant entitled to possession at the time the plan is declared effective or a person to whom a dwelling unit is rented subsequent to the effective date. A person who sublets a dwelling unit from a purchaser under the plan shall not be deemed a non-purchasing tenant. (iii) "Eligible senior citizens". Non-purchasing tenants who are sixty-two years of age or older on the date the attorney general has accepted the plan for filing, and the spouses of any such tenants on such date, and who have elected, within sixty days of the date the attorney general has accepted the plan for filing, on forms promulgated by the attorney general and presented to such tenants by the offeror, to become non-purchasing tenants under the provisions of this subdivision; provided that such election shall not preclude any such tenant from subsequently purchasing the dwelling unit on the terms then offered to tenants in occupancy. (iv) "Eligible disabled persons". Non-purchasing tenants who have an impairment which results from anatomical, physiological or psychological conditions, other than addiction to alcohol, gambling, or any controlled substance, which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques, and which are expected to be permanent and which prevent the tenant from engaging in any substantial gainful employment on the date the attorney general has accepted the plan for filing, and the spouses of any such tenants on such date, and who have elected, within sixty days of the date the attorney general has accepted the plan for filing, on forms promulgated by the attorney general and presented to such tenants by the offeror, to become non-purchasing tenants under the provisions of this subdivision; provided, however, that if the disability first occurs after acceptance of the plan for filing, then such election may be made within sixty days following the onset of such disability unless during the

period subsequent to sixty days following the acceptance of the plan for filing but prior to such election, the offeror accepts a written agreement to purchase the apartment from a bona fide purchaser; and provided further that such election shall not preclude any such tenant from subsequently purchasing the dwelling unit or the shares allocated thereto on the terms then offered to tenants in occupancy. (b) The attorney general shall refuse to issue a letter stating that the offering statement or prospectus required in subdivision one of this section has been filed whenever it appears that the offering statement or prospectus offers for sale residential cooperative apartments or condominium units pursuant to a plan unless the plan provides that: (i) No eviction proceedings will be commenced, except as hereinafter provided, at any time against either eligible senior citizens or eligible disabled persons. The rentals of eligible senior citizens and eligible disabled persons who reside in dwelling units not subject to government regulation as to rentals and continued occupancy and eligible senior citizens and eligible disabled persons who reside in dwelling units with respect to which government regulation as to rentals and continued occupancy is eliminated or becomes inapplicable after the plan has been accepted for filing shall not be subject to unconscionable increases beyond ordinary rentals for comparable apartments during the period of their occupancy considering, in determining comparability, such factors as building services, level of maintenance and operating expenses; provided that such proceedings may be commenced against such tenants for non-payment of rent, illegal use or occupancy of the premises, refusal of reasonable access to the owner or a similar breach by the tenant of his obligations to the owner of the dwelling unit or the shares allocated thereto and provided further that an owner of a unit or of the shares allocated thereto may not commence an action to recover possession of a dwelling unit from a non-purchasing tenant on the grounds that he seeks the dwelling unit for the use and occupancy of himself or his family. (ii) Eligible senior citizens and eligible disabled persons who reside in dwelling units subject to government regulation as to rentals and continued occupancy shall continue to be subject thereto. (iii) The rights granted under the plan to eligible senior citizens and eligible disabled persons may not be abrogated or reduced notwithstanding any expiration of, or amendment to, this section. (iv) Any offeror who disputes the election by a person to be an eligible senior citizen or an eligible disabled person must apply to the attorney general within thirty days of the receipt of the election forms for a determination by the attorney general of such person's eligibility. The attorney general shall, within thirty days thereafter, issue his determination of eligibility. The foregoing shall, in the absence of fraud, be the sole method for determining a dispute as to whether a person is an eligible senior citizen or an eligible disabled person. The determination of the attorney general shall be reviewable only through a proceeding under article seventy-eight of the civil practice law and rules, which proceeding must be commenced within thirty days after such determination by the attorney general becomes final. (c) The provisions of this subdivision shall be applicable in any city, town or village not covered by the provisions of section three hundred fifty-two-eeee of this chapter, or which has not elected to be covered by section three hundred fifty-two-eee of this chapter, provided the local legislative body elects, by majority vote to adopt by resolution, coverage provided by this section. A certified copy of such resolution shall be filed in the office of the attorney general at Albany and shall become effective on the date of such filing. 2-b. In the case of offerings of cooperatives, condominiums, interest in homeowners association and other cooperative interests in realty, including homes subject to deed or covenant or agreements requiring investment therein, the attorney general may refuse to issue a letter of acceptance unless the offering statement, prospectus or plan shall provide that all deposits, down-payments or advances made by purchasers of residential units shall be held in a special escrow account pending delivery of the completed apartment or unit and a deed or lease whichever is applicable, unless insurance of such funds in a form satisfactory to the attorney general has been obtained prior thereto. In addition to the general regulatory authority provided in this section, the attorney general is hereby authorized to adopt, promulgate, amend and rescind suitable rules and regulations to carry out the provisions of this subdivision, including, but not limited to, determining when escrow funds may be released, the nature of escrow fees, and other terms and conditions relating thereto deemed necessary in the public interest. 2-c. Payment of legal fees for representation of a tenant or tenant's association in a residential building undergoing conversion to cooperative or condominium ownership shall not be made from any reserve fund, working capital fund, or other fund established to cover expenses, repairs and capital improvements of buildings converted to cooperative or condominium ownership, unless made pursuant to a retainer agreement entered into before this subdivision shall have become a law. Payment of legal fees may be made, however, from another fund specifically designated for such purpose. 2-d. (a) "Non-occupying owner" shall mean the owner of shares in a cooperative corporation who does not reside in the apartment assigned to its shares, when the apartment is occupied by a non-purchasing tenant; or the owner of a unit in a condominium who does not reside in the unit, when the unit is occupied by a non-purchasing tenant. "Non-

purchasing tenant" shall have the same meaning as that term is defined in paragraph (e) of subdivision one of sections three hundred fifty-two-eee and three hundred fifty-two-eeee of this chapter. (b) The attorney general shall also refuse to issue a letter stating that the offering has been filed, or in the case of a plan already accepted for filing, shall refuse to accept an amendment to the plan unless the offering statement, prospectus, plan or amendment provides that when a non-occupying owner fails to make all payments due on such shares or units, including but not limited to maintenance payments, common charges, assessments or late fees, within thirty days after they are due, upon notice in accordance with paragraph (c) of this subdivision, all rental payments from the non-purchasing tenant residing in such apartment or unit shall be directly payable to the apartment corporation or condominium association. The offeror shall provide each non-purchasing tenant with irrevocable notice of the provisions of this subdivision. (c) If maintenance payments, common charges or other fees due from the non-occupying owner have not been paid in full, the cooperative corporation board of directors or condominium board of managers shall provide written notice within forty-five days after the earliest due date to the non-purchasing tenant and the non-occupying owner providing that, commencing immediately and until such time as payments are made current, all rental payments due are to be made payable to the cooperative corporation or condominium association at the address listed on the notice. Where a majority of the board of directors or managers has been elected by and from among the shareholders or unit owners who are in occupancy, the board may elect not to require that rental payments be made payable to the cooperative corporation or condominium association. At such time as payments from the non-occupying owner are once again current, notice of such fact shall be given within three business days to the non-purchasing tenant and non-occupying owner. Thereafter all rental payments shall be made payable to the non-occupying owner. A non-occupying owner who disputes the corporation's or association's right to receive rental payments pursuant to this section shall be entitled to present facts supporting its position at the next scheduled meeting of the board of directors or board of managers, which must be held within thirty days. (d) Nothing in this subdivision shall limit any rights existing under any other law. (e) Payment by a non-purchasing tenant to the cooperative corporation or condominium association made in accordance with this subdivision shall relieve that non-purchasing tenant from the obligation to pay that rent to the non-occupying owner. 3. No offering literature shall be employed in the offering of securities as defined in subdivision one of this section except by the offering statement or statements filed in the department of law pursuant to the provisions of this section. All advertising in whatever form, including periodicals or on radio or television shall contain a statement that no offer of such securities is made except by such offering statement or statements. 4. In all literature employed in the offer and sale of securities defined in subdivision one of this section and in all advertising in connection therewith there shall be contained, in easily readable print on the face thereof, a statement that the filing of an offering statement or statements or prospectus as required by subdivision one of this section with the department of law does not constitute approval of the issue or the sale thereof by the department of law or the attorney general of this state. 5. No offering or sale whatever of securities described in subdivision one of this section shall be made except on the basis of information, statements, literature, or representations constituting the offering statement or statements or prospectus described in such subdivision, and no information, statements, literature, or representations shall be used in the offering or sale of securities described in such subdivision unless it is first so filed and the prospective purchaser furnished with true copies thereof. 6. (a) The attorney general is hereby authorized and empowered to adopt, promulgate, amend and rescind suitable rules and regulations to carry out the provisions of this section, including regulations for the method, contents and filing procedures with respect to the statements required by subdivision one and the making of amendments thereto. (b) The attorney general is hereby authorized and empowered to adopt, promulgate, amend and rescind suitable rules and regulations relating to the information furnished to investors of the sources of any distribution or distributions made by any issuer in connection with the sale of realty securities since January first, nineteen hundred sixty-one within the provisions of section three hundred fifty-two-e and section three hundred fifty-two-g of this article. 7. (a) The department of law shall collect the following fees for the filing of each offering statement or prospectus as described in subdivision one of this section: five hundred dollars for every offering not in excess of two hundred fifty thousand dollars; for every offering in excess of two hundred fifty thousand dollars, two-tenths of one percent of the total amount of the offering but not in excess of twenty thousand dollars of which one-half of said amount shall be a nonrefundable deposit paid at the time of submitting the offering statement to the department of law for review and the balance payable upon the issuance of a letter of acceptance for filing said offering statement. The department of law shall, in addition, collect a fee of one hundred fifty dollars for each amendment to an offering statement. For each application granted by the department of law

which permits the applicant to solicit public interest or public funds preliminary to the filing of an offering statement or for the issuance of a "no-filing required" letter, the department of law shall collect a fee of one hundred fifty dollars. In the event the sponsor thereafter files an offering statement, the fee paid for the preliminary application shall be credited against the balance of the fee due and payable on filing. For each application granted pursuant to section three hundred fifty-two-g of this article, the department of law shall collect a fee of two-tenths of one percent of the amount of the offering of securities; however, the minimum fee shall be five hundred dollars and the maximum fee shall be twenty thousand dollars. (b) The attorney general may, in his discretion, require an inspection to be made by the department of law in connection with a real estate syndication, cooperative, or condominium offering, of lands and property thereon, situated outside of the state of New York, involved in such offering. In such case, prior to the acceptance of such filing, there shall be remitted to the department of law an amount equivalent to the cost of travel from New York to the location of the property involved in the offering and return, as estimated by the department of law, and a further reasonable amount estimated to be necessary to cover the additional expenses of such inspection. The department of law shall return to the person making the remittance any amount advanced in excess of the actual expenses incurred, and where there is a deficiency, the department of law shall be empowered to collect the difference between the actual expenses and the amount advanced. (c) Notwithstanding the provisions of paragraph (a) of this subdivision, the department of law shall not collect any fees for the filing of an offering statement or prospectus or any amended filing thereto as described in subdivision one of this section whenever a conversion of a mobile home park, building or group of buildings or development from residential rental status to cooperative or condominium ownership is being made pursuant to article eighteen, nineteen or twenty of the private housing finance law.

8. Within four months after the end of its fiscal year, every syndicate which shall have been required to file an offering statement or statements or prospectus under subdivision one of this section shall file with the department of law at its office in the city of New York an annual report of the syndicate operation, including an annual balance sheet and profit and loss statement certified by an independent certified public accountant. The department of law shall collect a fee of five dollars for the filing of each such annual report.

9. Each offering statement or prospectus as described in subdivision one of this section, and all exhibits or documents referred to therein shall be available for inspection by any person who shall have purchased a security described in this section or shall have participated in the offering of such security.

S 352-eee. Conversions to cooperative or condominium ownership in certain cities, towns and villages located in the counties of Nassau, Westchester and Rockland.

1. As used in this section, the following words and terms shall have the following meanings: (a) "Plan". Every offering statement or prospectus submitted to the department of law pursuant to section three hundred fifty-two-e of this article for the conversion of a building or group of buildings or development from residential rental status to cooperative or condominium ownership or other form of cooperative interest in realty, other than an offering statement or prospectus for such conversion pursuant to article two, eight or eleven of the private housing finance law. (b) "Non-eviction plan". A plan which may not be declared effective until at least fifteen percent of those bona fide tenants in occupancy of all dwelling units in the building or group of buildings or development on the date the plan is declared effective shall have executed and delivered written agreements to purchase under the plan. As to tenants who were in occupancy on the date a letter was issued by the attorney general accepting the plan for filing, the purchase agreement shall be executed and delivered pursuant to an offering made in good faith without fraud and discriminatory repurchase agreements or other discriminatory inducements. (c) "Eviction plan". A plan which, pursuant to the provisions of this section, can result in the eviction of a non-purchasing tenant by reason of the tenant failing to purchase pursuant thereto, and which may not be declared effective until written agreements to purchase under the plan pursuant to an offering made in good faith without fraud and with no discriminatory repurchase agreements or other discriminatory inducements shall have been executed and delivered by: (i) at least fifty-one percent of the bona fide tenants in occupancy of all dwelling units in the building or group of buildings or development on the date the offering statement or prospectus was accepted for filing by the attorney general excluding, for the purposes of determining the number of bona fide tenants in occupancy on such date, eligible senior citizens and eligible disabled persons; and (ii) at least thirty-five percent of the bona fide tenants in occupancy of all dwelling units in the building or group of buildings or development on the date the offering statement or prospectus was accepted for filing by the

attorney general including, for the purposes of determining the number of bona fide tenants in occupancy on such date eligible senior citizens and eligible disabled persons. (d) "Purchaser under the plan". A person who owns the shares allocated to a dwelling unit or who owns such dwelling unit itself. (e) "Non-purchasing tenant". A person who has not purchased under the plan and who is a tenant entitled to possession at the time the plan is declared effective or a person to whom a dwelling unit is rented subsequent to the effective date. A person who sublets a dwelling unit from a purchaser under the plan shall not be deemed a non-purchasing tenant. (f) "Eligible senior citizens". Non-purchasing tenants who are sixty-two years of age or older on the date the plan is declared effective and the spouses of any such tenants on such date; provided that such tenants shall not be precluded from subsequently purchasing the dwelling unit on the terms then offered to tenants in occupancy. (g) "Eligible disabled persons". Non-purchasing tenants who have an impairment which results from anatomical, physiological or psychological conditions, other than addiction to alcohol, gambling, or any controlled substance, which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques, and which are expected to be permanent and which prevent the tenant from engaging in any substantial gainful employment on the date the attorney general has accepted the plan for filing, and the spouses of any such tenants on such date, and who have elected, within sixty days of the date the attorney general has accepted the plan for filing, on forms promulgated by the attorney general and presented to such tenants by the offeror, to become non-purchasing tenants under the provisions of this section; provided, however, that if the disability first occurs after acceptance of the plan for filing, then such election may be made within sixty days following the onset of such disability unless during the period subsequent to sixty days following the acceptance of the plan for filing but prior to such election, the offeror accepts a written agreement to purchase the apartment from a bona fide purchaser; and provided further that such election shall not preclude any such tenant from subsequently purchasing the dwelling unit or the shares allocated thereto on the terms then offered to tenants in occupancy. 2. The attorney general shall refuse to issue a letter stating that the offering statement or prospectus required in subdivision one of section three hundred fifty-two-e of this chapter has been filed whenever it appears that the offering statement or prospectus offers for sale residential cooperative apartments or condominium units pursuant to a plan unless: (a) The plan provides that it will be deemed abandoned, void and of no effect if it does not become effective within twelve months from the date of issue of the letter of the attorney general stating that the offering statement or prospectus has been accepted for filing and, in the event of such abandonment, no new plan for the conversion of such building or group of buildings or development shall be submitted to the attorney general for at least fifteen months after such abandonment. (b) The plan provides either that it is an eviction plan or that it is a non-eviction plan. (c) The plan provides, if it is a non-eviction plan, as follows: (i) The plan may not be declared effective until at least fifteen percent of those bona fide tenants in occupancy of all dwelling units in the building or group of buildings or development on the date the plan is declared effective shall have executed and delivered written agreements to purchase under the plan. As to tenants who were in occupancy on the date a letter was issued by the attorney general accepting the plan for filing, the purchase agreement shall be executed and delivered pursuant to an offering made in good faith without fraud and discriminatory repurchase agreements or other discriminatory inducements. (ii) No eviction proceedings will be commenced at any time against non-purchasing tenants for failure to purchase or any other reason applicable to expiration of tenancy; provided that such proceedings may be commenced for non-payment of rent, illegal use or occupancy of the premises, refusal of reasonable access to the owner or a similar breach by the non-purchasing tenant of his obligations to the owner of the dwelling unit or the shares allocated thereto; and provided further that an owner of a unit or of the shares allocated thereto may not commence an action to recover possession of a dwelling unit from a non-purchasing tenant on the grounds that he seeks the dwelling unit for the use and occupancy of himself or his family. (iii) Non-purchasing tenants who reside in dwelling units subject to government regulation as to rentals and continued occupancy prior to the conversion of the building or group of buildings or development to cooperative or condominium ownership shall continue to be subject thereto. (iv) The rentals of non-purchasing tenants who reside in dwelling units not subject to government regulation as to rentals and continued occupancy and non-purchasing tenants who reside in dwelling units with respect to which government regulation as to rentals and continued occupancy is eliminated or becomes inapplicable after the plan has been accepted for filing by the attorney general shall not be subject to unconscionable increases beyond ordinary rentals for comparable apartments during the period of their occupancy. In determining comparability, consideration shall be given to such factors as building services, level of maintenance and operating expenses. (v) The plan may not be amended at any time to provide that it shall be an eviction plan. (vi) The rights granted

under the plan to purchasers under the plan and to non-purchasing tenants may not be abrogated or reduced notwithstanding any expiration of, or amendment to, this section. (vii) After the issuance of the letter from the attorney general stating that the offering statement or prospectus required in subdivision one of section three hundred fifty-two-e of this article has been filed, the offeror shall, on the thirtieth, sixtieth, eighty-eighth and ninetieth day after such date and at least once every thirty days until the plan is declared effective or is abandoned, as the case may be, and on the second day before the expiration of any exclusive purchase period provided in a substantial amendment to the plan, (1) file with the attorney general a written statement, under oath, setting forth the percentage of bona fide tenants in occupancy of all dwelling units in the building or group of buildings or development who have executed and delivered written agreements to purchase under the plan as of the date of such statement, (2) before noon on the day such statement is filed post a copy of such statement in a prominent place accessible to all tenants in each building covered by the plan. (d) The plan provides, if it is an eviction plan, as follows: (i) The plan may not be declared effective unless: (1) at least fifty-one percent of the bona fide tenants in occupancy of all dwelling units in the building or group of buildings or development on the date the offering statement or prospectus was accepted for filing by the attorney general excluding, for the purposes of determining the number of bona fide tenants in occupancy on such date, eligible senior citizens and eligible disabled persons; and (2) at least thirty-five percent of the bona fide tenants in occupancy of all dwelling units in the building or group of buildings or development on the date the offering statement or prospectus was accepted for filing by the attorney general including, for the purposes of determining the number of bona fide tenants in occupancy on such date eligible senior citizens and eligible disabled persons; shall have executed and delivered written agreements to purchase under the plan pursuant to an offering made in good faith without fraud and with no discriminatory repurchase agreements or other discriminatory inducements. (ii) No eviction proceedings will be commenced against a non-purchasing tenant for failure to purchase or any other reason applicable to expiration of tenancy until the later to occur of (1) the date which is the expiration date provided in such non-purchasing tenant's lease or rental agreement, and (2) the date which is three years after the date on which the plan is declared effective. Non-purchasing tenants who reside in dwelling units subject to government regulation as to rentals and continued occupancy prior to conversion shall continue to be subject thereto during the period of occupancy provided in this paragraph. Thereafter, if a tenant has not purchased, he may be removed by the owner of the dwelling unit or the shares allocated to such dwelling unit. (iii) No eviction proceedings will be commenced, except as hereinafter provided, at any time against either eligible senior citizens or eligible disabled persons. The rentals of eligible senior citizens and eligible disabled persons who reside in dwelling units not subject to government regulation as to rentals and continued occupancy and eligible senior citizens and eligible disabled persons who reside in dwelling units with respect to which government regulation as to rentals and continued occupancy is eliminated or becomes inapplicable after the plan has been accepted for filing shall not be subject to unconscionable increases beyond ordinary rentals for comparable apartments during the period of their occupancy considering, in determining comparability, such factors as building services, level of maintenance and operating expenses; provided that such proceedings may be commenced against such tenants for non-payment of rent, illegal use or occupancy of the premises, refusal of reasonable access to the owner or a similar breach by the tenant of his obligations to the owner of the dwelling unit or the shares allocated thereto; and provided further that an owner of a unit or of the shares allocated thereto may not commence an action to recover possession of a dwelling unit from a non-purchasing tenant on the grounds that he seeks the dwelling unit for the use and occupancy of himself or his family. (iv) Eligible senior citizens and eligible disabled persons who reside in dwelling units subject to government regulation as to rentals and continued occupancy shall continue to be subject thereto. (v) The rights granted under the plan to eligible senior citizens and eligible disabled persons may not be abrogated or reduced notwithstanding any expiration of, or amendment to, this section. (vi) Any offeror who disputes the election by a person to be an eligible senior citizen or an eligible disabled person must apply to the attorney general within thirty days of the receipt of the election forms for a determination by the attorney general of such person's eligibility. The attorney general shall, within thirty days thereafter, issue his determination of eligibility. The foregoing shall, in the absence of fraud, be the sole method for determining a dispute as to whether a person is an eligible senior citizen or an eligible disabled person. The determination of the attorney general shall be reviewable only through a proceeding under article seventy-eight of the civil practice law and rules, which proceeding must be commenced within thirty days after such determination by the attorney general becomes final. (vii) After the issuance of the letter from the attorney general stating that the offering statement or prospectus required in subdivision one of section three hundred fifty-two-e of this article has

been accepted for filing, the offeror shall, on the thirtieth, sixtieth, eighty-eighth and ninetieth days after such date and at least once every thirty days until the plan is declared effective or abandoned, as the case may be, and on the second day before the expiration of any exclusive purchase period provided in a substantial amendment to the plan, (1) file with the attorney general a written statement, under oath, setting forth the percentage of bona fide tenants in occupancy of all dwelling units in the building or group of buildings or development on the date the offering statement or prospectus was accepted for filing by the attorney general who have executed and delivered written agreements to purchase under the plan as of the date of such statement, and (2) before noon on the day such statement is filed post a copy of such statement in a prominent place accessible to all tenants in each building covered by the plan. (viii) If the plan is amended before it is declared effective to provide that it shall be a non-eviction plan, any person who has agreed to purchase under the plan prior to such amendment shall have a period of thirty days after receiving written notice of such amendment to revoke his agreement to purchase under the plan. (ix) The tenants in occupancy on the date the attorney general accepts the plan for filing shall have the exclusive right to purchase their dwelling units or the shares allocated thereto for ninety days after the plan is accepted for filing by the attorney general, during which time a tenant's dwelling unit shall not be shown to a third party unless he has, in writing, waived his right to purchase; subsequent to the expiration of such ninety day period, a tenant in occupancy of a dwelling unit who has not purchased shall be given the exclusive right for an additional period of six months from said expiration date to purchase said dwelling unit or the shares allocated thereto on the same terms and conditions as are contained in an executed contract to purchase said dwelling unit or shares entered into by a bona fide purchaser, such exclusive right to be exercisable within fifteen days from the date of mailing by registered mail of notice of the execution of a contract of sale together with a copy of said executed contract to said tenant. (e) The attorney general finds that an excessive number of long-term vacancies did not exist on the date that the offering statement or prospectus was first submitted to the department of law. "Long-term vacancies" shall mean dwelling units not leased or occupied by bona fide tenants for more than five months prior to the date of such submission to the department of law. "Excessive" shall mean a vacancy rate in excess of the greater of (i) ten percent and (ii) a percentage that is double the normal average vacancy rate for the building or group of buildings or development for two years prior to the January preceding the date the offering statement or prospectus was first submitted to the department of law. (f) The attorney general finds that, following the submission of the offering statement or prospectus to the department of law, each tenant in the building or group of buildings or development was provided with a written notice stating that such offering statement or prospectus has been submitted to the department of law for filing. Such notice shall be accompanied by a copy of the offering statement or prospectus and a statement that the statements submitted pursuant to subparagraph (vii) of paragraph (c) or subparagraph (vii) of paragraph (d) of this subdivision, whichever is applicable, will be available for inspection and copying at the office of the department of law where the submission was made and at the office of the offeror or a selling agent of the offeror. Such notice shall also be accompanied by a statement that tenants or their representatives may physically inspect the premises at any time subsequent to the submission of the plan to the department of law, during normal business hours, upon written request made by them to the offeror, provided such representatives are registered architects or professional engineers licensed to practice in the state of New York. Such notice shall be sent to each tenant in occupancy on the date the plan is first submitted to the department of law and to the clerk of the municipality wherein such building or group of buildings or development is located. 3. All dwelling units occupied by non-purchasing tenants shall be managed by the same managing agent who manages all other dwelling units in the building or group of buildings or development. Such managing agent shall provide to non-purchasing tenants all services and facilities required by law on a non-discriminatory basis. The offeror shall guarantee the obligation of the managing agent to provide all such services and facilities until such time as the offeror surrenders control to the board of directors or board of managers, at which time the cooperative corporation or the condominium association shall assume responsibility for the provision of all services and facilities required by law on a non-discriminatory basis. 4. It shall be unlawful for any person to engage in any course of conduct, including, but not limited to, interruption or discontinuance of essential services, which substantially interferes with or disturbs the comfort, repose, peace or quiet of any tenant in his use or occupancy of his dwelling unit or the facilities related thereto. The attorney general may apply to a court of competent jurisdiction for an order restraining such conduct and, if he deems it appropriate, an order restraining the owner from selling the shares allocated to the dwelling unit or the dwelling unit itself or from proceeding with the plan of conversion; provided that nothing contained herein shall be deemed to preclude the tenant from applying on his own behalf for similar relief. 5. Any local legislative body may

adopt local laws and any agency, officer or public body may prescribe rules and regulations with respect to the continued occupancy by tenants of dwelling units which are subject to regulation as to rentals and continued occupancy pursuant to law, provided that in the event that any such local law, rule or regulation shall be inconsistent with the provisions of this section, the provisions of this section shall control. 6. Any provision of a lease or other rental agreement which purports to waive a tenant's rights under this section or rules and regulations promulgated pursuant hereto shall be void as contrary to public policy. 7. The provisions of this section shall only be applicable in the cities, towns and villages located in the counties of Nassau, Westchester and Rockland which by resolution adopted by the respective local legislative body of such city, town or village, elect that the provisions hereof shall be applicable therein. A certified copy of such resolution shall be filed in the office of the attorney general at Albany and shall become effective on the date of such filing. * NB Expires 03/06/15 * S 352-eeee. Conversions to cooperative or condominium ownership in the city of New York. 1. As used in this section, the following words and terms shall have the following meanings: (a) "Plan". Every offering statement or prospectus submitted to the department of law pursuant to section three hundred fifty-two-e of this article for the conversion of a building or group of buildings or development from residential rental status to cooperative or condominium ownership or other form of cooperative interest in realty, other than an offering statement or prospectus for such conversion pursuant to article two, eight or eleven of the private housing finance law. (b) "Non-eviction plan". A plan which may not be declared effective until written purchase agreements have been executed and delivered for at least fifteen percent of all dwelling units in the building or group of buildings or development by bona fide tenants in occupancy or bona fide purchasers who represent that they intend that they or one or more members of their immediate family intend to occupy the unit when it becomes vacant. As to tenants who were in occupancy on the date a letter was issued by the attorney general accepting the plan for filing, the purchase agreement shall be executed and delivered pursuant to an offering made in good faith without fraud and discriminatory repurchase agreements or other discriminatory inducements. (c) "Eviction plan". A plan which, pursuant to the provisions of this section, can result in the eviction of a non-purchasing tenant by reason of the tenant failing to purchase pursuant thereto, and which may not be declared effective until at least fifty-one percent of the bona fide tenants in occupancy of all dwelling units in the building or group of buildings or development on the date the offering statement or prospectus was accepted for filing by the attorney general (excluding, for the purposes of determining the number of bona fide tenants in occupancy on such date, eligible senior citizens and eligible disabled persons) shall have executed and delivered written agreements to purchase under the plan pursuant to an offering made in good faith without fraud and without discriminatory repurchase agreements or other discriminatory inducements. (d) "Purchaser under the plan". A person who owns the shares allocated to a dwelling unit or who owns such dwelling unit itself. (e) "Non-purchasing tenant". A person who has not purchased under the plan and who is a tenant entitled to possession at the time the plan is declared effective or a person to whom a dwelling unit is rented subsequent to the effective date. A person who sublets a dwelling unit from a purchaser under the plan shall not be deemed a non-purchasing tenant. (f) "Eligible senior citizens". Non-purchasing tenants who are sixty-two years of age or older on the date the attorney general has accepted the plan for filing, and the spouses of any such tenants on such date, and who have elected, within sixty days of the date the attorney general has accepted the plan for filing, on forms promulgated by the attorney general and presented to such tenants by the offeror, to become non-purchasing tenants under the provisions of this section; provided that such election shall not preclude any such tenant from subsequently purchasing the dwelling unit on the terms then offered to tenants in occupancy. (g) "Eligible disabled persons". Non-purchasing tenants who have an impairment which results from anatomical, physiological or psychological conditions, other than addiction to alcohol, gambling, or any controlled substance, which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques, and which are expected to be permanent and which prevent the tenant from engaging in any substantial gainful employment on the date the attorney general has accepted the plan for filing, and the spouses of any such tenants on such date, and who have elected, within sixty days of the date the attorney general has accepted the plan for filing, on forms promulgated by the attorney general and presented to such tenants by the offeror, to become non-purchasing tenants under the provisions of this section; provided, however, that if the disability first occurs after acceptance of the plan for filing, then such election may be made within sixty days following the onset of such disability unless during the period subsequent to sixty days following the acceptance of the plan for filing but prior to such election, the offeror accepts a written agreement to purchase the apartment from a bona fide purchaser; and provided further that such election shall not preclude any such tenant from subsequently purchasing the dwelling unit or the shares allocated thereto on the terms then offered to tenants in

occupancy. 2. The attorney general shall refuse to issue a letter stating that the offering statement or prospectus required in subdivision one of section three hundred fifty-two-e of this chapter has been filed whenever it appears that the offering statement or prospectus offers for sale residential cooperative apartments or condominium units pursuant to a plan unless: (a) The plan provides that it will be deemed abandoned, void and of no effect if it does not become effective within fifteen months from the date of issue of the letter of the attorney general stating that the offering statement or prospectus has been accepted for filing and, in the event of such abandonment, no new plan for the conversion of such building or group of buildings or development shall be submitted to the attorney general for at least twelve months after such abandonment. (b) The plan provides either that it is an eviction plan or that it is a non-eviction plan. (c) The plan provides, if it is a non-eviction plan, as follows: (i) The plan may not be declared effective until written purchase agreements have been executed and delivered for at least fifteen percent of all dwelling units in the building or group of buildings or development subscribed for by bona fide tenants in occupancy or bona fide purchasers who represent that they intend that they or one or more members of their immediate family occupy the dwelling unit when it becomes vacant. As to tenants who were in occupancy on the date a letter was issued by the attorney general accepting the plan for filing, the purchase agreement shall be executed and delivered pursuant to an offering made without discriminatory repurchase agreements or other discriminatory inducements. (ii) No eviction proceedings will be commenced at any time against non-purchasing tenants for failure to purchase or any other reason applicable to expiration of tenancy; provided that such proceedings may be commenced for non-payment of rent, illegal use or occupancy of the premises, refusal of reasonable access to the owner or a similar breach by the non-purchasing tenant of his obligations to the owner of the dwelling unit or the shares allocated thereto; and provided further that an owner of a unit or of the shares allocated thereto may not commence an action to recover possession of a dwelling unit from a non-purchasing tenant on the grounds that he seeks the dwelling unit for the use and occupancy of himself or his family. (iii) Non-purchasing tenants who reside in dwelling units subject to government regulation as to rentals and continued occupancy prior to the conversion of the building or group of buildings or development to cooperative or condominium ownership shall continue to be subject thereto. (iv) The rentals of non-purchasing tenants who reside in dwelling units not subject to government regulation as to rentals and continued occupancy and non-purchasing tenants who reside in dwelling units with respect to which government regulation as to rentals and continued occupancy is eliminated or becomes inapplicable after the plan has been accepted for filing by the attorney general shall not be subject to unconscionable increases beyond ordinary rentals for comparable apartments during the period of their occupancy. In determining comparability, consideration shall be given to such factors as building services, level of maintenance and operating expenses. (v) The plan may not be amended at any time to provide that it shall be an eviction plan. (vi) The rights granted under the plan to purchasers under the plan and to non-purchasing tenants may not be abrogated or reduced notwithstanding any expiration of, or amendment to, this section. (vii) After the issuance of the letter from the attorney general stating that the offering statement or prospectus required in subdivision one of section three hundred fifty-two-e of this article has been filed, the offeror shall, on the thirtieth, sixtieth, eighty-eighth and ninetieth day after such date and at least once every thirty days until the plan is declared effective or is abandoned, as the case may be, and on the second day before the expiration of any exclusive purchase period provided in a substantial amendment to the plan, (1) file with the attorney general a written statement, under oath, setting forth the percentage of the dwelling units in the building or group of buildings or development subscribed for by bona fide tenants in occupancy or bona fide purchasers who represent that they intend that they or one or more members of their immediate family occupy the dwelling unit when it becomes vacant as of the date of such statement and, (2) before noon on the day such statement is filed post a copy of such statement in a prominent place accessible to all tenants in each building covered by the plan. (d) The plan provides, if it is an eviction plan, as follows: (i) The plan may not be declared effective unless at least fifty-one percent of the bona fide tenants in occupancy of all dwelling units in the building or group of buildings or development on the date the offering statement or prospectus was accepted for filing by the attorney general (excluding, for the purposes of determining the number of bona fide tenants in occupancy on such date, eligible senior citizens and eligible disabled persons) shall have executed and delivered written agreements to purchase under the plan pursuant to an offering made in good faith without fraud and with no discriminatory repurchase agreements or other discriminatory inducements. (ii) No eviction proceedings will be commenced against a non-purchasing tenant for failure to purchase or any other reason applicable to expiration of tenancy until the later to occur of (1) the date which is the expiration date provided in such non-purchasing tenant's lease or rental agreement, and (2) the

date which is three years after the date on which the plan is declared effective. Non-purchasing tenants who reside in dwelling units subject to government regulation as to rentals and continued occupancy prior to conversion shall continue to be subject thereto during the period of occupancy provided in this paragraph. Thereafter, if a tenant has not purchased, he may be removed by the owner of the dwelling unit or the shares allocated to such dwelling unit. (iii) No eviction proceedings will be commenced, except as hereinafter provided, at any time against either eligible senior citizens or eligible disabled persons. The rentals of eligible senior citizens and eligible disabled persons who reside in dwelling units not subject to government regulation as to rentals and continued occupancy and eligible senior citizens and eligible disabled persons who reside in dwelling units with respect to which government regulation as to rentals and continued occupancy is eliminated or becomes inapplicable after the plan has been accepted for filing shall not be subject to unconscionable increases beyond ordinary rentals for comparable apartments during the period of their occupancy considering, in determining comparability, such factors as building services, level of maintenance and operating expenses; provided that such proceedings may be commenced against such tenants for non-payment of rent, illegal use or occupancy of the premises, refusal of reasonable access to the owner or a similar breach by the tenant of his obligations to the owner of the dwelling unit or the shares allocated thereto. (iv) Eligible senior citizens and eligible disabled persons who reside in dwelling units subject to government regulation as to rentals and continued occupancy shall continue to be subject thereto. (v) The rights granted under the plan to eligible senior citizens and eligible disabled persons may not be abrogated or reduced notwithstanding any expiration of, or amendment to, this section. (vi) Any offeror who disputes the election by a person to be an eligible senior citizen or an eligible disabled person must apply to the attorney general within thirty days of the receipt of the election forms for a determination by the attorney general of such person's eligibility. The attorney general shall, within thirty days thereafter, issue his determination of eligibility. The foregoing shall, in the absence of fraud, be the sole method for determining a dispute as to whether a person is an eligible senior citizen or an eligible disabled person. The determination of the attorney general shall be reviewable only through a proceeding under article seventy-eight of the civil practice law and rules, which proceeding must be commenced within thirty days after such determination by the attorney general becomes final. (vii) After the issuance of the letter from the attorney general stating that the offering statement or prospectus required in subdivision one of section three hundred fifty-two-e of this article has been accepted for filing, the offeror shall, on the thirtieth, sixtieth, eighty-eighth and ninetieth days after such date and at least once every thirty days until the plan is declared effective or abandoned, as the case may be, and on the second day before the expiration of any exclusive purchase period provided in a substantial amendment to the plan, (1) file with the attorney general a written statement, under oath, setting forth the percentage of bona fide tenants in occupancy of all dwelling units in the building or group of buildings or development on the date the offering statement or prospectus was accepted for filing by the attorney general who have executed and delivered written agreements to purchase under the plan as of the date of such statement, and (2) before noon on the day such statement is filed post a copy of such statement in a prominent place accessible to all tenants in each building covered by the plan. (viii) If the plan is amended before it is declared effective to provide that it shall be a non-eviction plan, any person who has agreed to purchase under the plan prior to such amendment shall have a period of thirty days after receiving written notice of such amendment to revoke his agreement to purchase under the plan. (ix) The tenants in occupancy on the date the attorney general accepts the plan for filing shall have the exclusive right to purchase their dwelling units or the shares allocated thereto for ninety days after the plan is accepted for filing by the attorney general, during which time a tenant's dwelling unit shall not be shown to a third party unless he has, in writing, waived his right to purchase; subsequent to the expiration of such ninety day period, a tenant in occupancy of a dwelling unit who has not purchased shall be given the exclusive right for an additional period of six months from said expiration date to purchase said dwelling unit or the shares allocated thereto on the same terms and conditions as are contained in an executed contract to purchase said dwelling unit or shares entered into by a bona fide purchaser, such exclusive right to be exercisable within fifteen days from the date of mailing by registered mail of notice of the execution of a contract of sale together with a copy of said executed contract to said tenant. (e) The attorney general finds that an excessive number of long-term vacancies did not exist on the date that the offering statement or prospectus was first submitted to the department of law. "Long-term vacancies" shall mean dwelling units not leased or occupied by bona fide tenants for more than five months prior to the date of such submission to the department of law. "Excessive" shall mean a vacancy rate in excess of the greater of (i) ten percent and (ii) a percentage that is double the normal average vacancy rate for the building or group of buildings or development for two years prior to the January preceding the date the

offering statement or prospectus was first submitted to the department of law. (f) The attorney general finds that, following the submission of the offering statement or prospectus to the department of law, each tenant in the building or group of buildings or development was provided with a written notice stating that such offering statement or prospectus has been submitted to the department of law for filing. Such notice shall be accompanied by a copy of the offering statement or prospectus and a statement that the statements submitted pursuant to subparagraph (vi) of paragraph (c) or subparagraph (vii) of paragraph (d) of this subdivision, whichever is applicable, will be available for inspection and copying at the office of the department of law where the submission was made and at the office of the offeror or a selling agent of the offeror. Such notice shall also be accompanied by a statement that tenants or their representatives may physically inspect the premises at any time subsequent to the submission of the plan to the department of law, during normal business hours, upon written request made by them to the offeror, provided such representatives are registered architects or professional engineers licensed to practice in the state of New York. Such notice shall be sent to each tenant in occupancy on the date the plan is first submitted to the department of law. 3. All dwelling units occupied by non-purchasing tenants shall be managed by the same managing agent who manages all other dwelling units in the building or group of buildings or development. Such managing agent shall provide to non-purchasing tenants all services and facilities required by law on a non-discriminatory basis. The offeror shall guarantee the obligation of the managing agent to provide all such services and facilities until such time as the offeror surrenders control to the board of directors or board of managers, at which time the cooperative corporation or the condominium association shall assume responsibility for the provision of all services and facilities required by law on a non-discriminatory basis. 4. It shall be unlawful for any person to engage in any course of conduct, including, but not limited to, interruption or discontinuance of essential services, which substantially interferes with or disturbs the comfort, repose, peace or quiet of any tenant in his use or occupancy of his dwelling unit or the facilities related thereto. The attorney general may apply to a court of competent jurisdiction for an order restraining such conduct and, if he deems it appropriate, an order restraining the owner from selling the shares allocated to the dwelling unit or the dwelling unit itself or from proceeding with the plan of conversion; provided that nothing contained herein shall be deemed to preclude the tenant from applying on his own behalf for similar relief. 5. Any local legislative body may adopt local laws and any agency, officer or public body may prescribe rules and regulations with respect to the continued occupancy by tenants of dwelling units which are subject to regulation as to rentals and continued occupancy pursuant to law, provided that in the event that any such local law, rule or regulation shall be inconsistent with the provisions of this section, the provisions of this section shall control. 6. Any provision of a lease or other rental agreement which purports to waive a tenant's rights under this section or rules and regulations promulgated pursuant hereto shall be void as contrary to public policy. 7. The provisions of this section shall only be applicable in the city of New York. * NB Expires 03/06/15

GENERAL MUNICIPAL LAW

ARTICLE 9-A. LOCAL OPTION FOR CONDUCT OF GAMES OF CHANCE BY CERTAIN ORGANIZATIONS

Sec. 185. Short title; purpose of article.

This article shall be known and may be cited as the games of chance licensing law. The legislature hereby declares that the raising of funds for the promotion of bona fide charitable, educational, scientific, health, religious and patriotic causes and undertakings, where the beneficiaries are undetermined, is in the public interest. It hereby finds that, as conducted prior to the enactment of this article, games of chance were the subject of exploitation by professional gamblers, promoters, and commercial interests. It is hereby declared to be the policy of the legislature that all phases of the supervision, licensing and regulation of games of chance and of the

conduct of games of chance, should be closely controlled and that the laws and regulations pertaining thereto should be strictly construed and rigidly enforced; that the conduct of the game and all attendant activities should be so regulated and adequate controls so instituted as to discourage commercialization of gambling in all its forms, including the rental of commercial premises for games of chance, and to ensure a maximum availability of the net proceeds of games of chance exclusively for application to the worthy causes and undertakings specified herein; that the only justification for this article is to foster and support such worthy causes and undertakings, and that the mandate of section nine of article one of the state constitution, as amended, should be carried out by rigid regulations to prevent commercialized gambling, prevent participation by criminal and other undesirable elements and prevent the diversion of funds from the purposes herein authorized.

S 186. Definitions.

As used in this article, the following terms shall have the following meanings:

1. "Municipality" shall mean any city, town or village within this state.
2. "Board" shall mean New York state racing and wagering board.
3. "Games of chance" shall mean and include only the games known as "merchandise wheels", "raffles" and "bell jars" and such other specific games as may be authorized by the board, in which prizes are awarded on the basis of a designated winning number or numbers, color or colors, symbol or symbols determined by chance, but not including games commonly known as "bingo or lotto" which are controlled under article fourteen-H of this chapter and also not including "slot machines", "bookmaking", "policy or numbers games" and "lottery" as defined in section 225.00 of the penal law. No game of chance shall involve wagering of money by one player against another player.
 - 3-a. "Bell jars" shall mean and include those games in which a participant shall draw a card from a jar, vending machine, or other suitable device or container which contains numbers, colors or symbols that are covered and which, when uncovered, may reveal that a prize shall be awarded on the basis of a designated winning number, color or symbol or combination of numbers, colors or symbols.
 - 3-b. "Raffle" shall mean and include those games of chance in which a

participant pays money in return for a ticket or other receipt and in which a prize is awarded on the basis of a winning number or numbers, color or colors, or symbol or symbols designated on the ticket or receipt, determined by chance as a result of a drawing from among those tickets or receipts previously sold.

4. "Authorized organization" shall mean and include any bona fide religious or charitable organization or bona fide educational, fraternal or service organization or bona fide organization of veterans or volunteer firemen, which by its charter, certificate of incorporation, constitution, or act of the legislature, shall have among its dominant purposes one or more of the lawful purposes as defined in this article, provided that each shall operate without profit to its members, and provided that each such organization has engaged in serving one or more of the lawful purposes as defined in this article for a period of three years immediately prior to applying for a license under this article.

No organization shall be deemed an authorized organization which is formed primarily for the purpose of conducting games of chance and which does not devote at least seventy-five percent of its activities to other than conducting games of chance. No political party shall be deemed an authorized organization.

5. "Lawful purposes" shall mean one or more of the following causes, deeds or activities:

(a) Those which shall benefit needy or deserving persons indefinitely in number by enhancing their opportunity for religious or educational advancement, by relieving them from disease, suffering or distress, or by contributing to their physical wellbeing, by assisting them in establishing themselves in life as worthy and useful citizens, or by increasing their comprehension of and devotion to the principles upon which this nation was founded and enhancing their loyalty to their governments.

(b) Those which shall initiate, perform or foster worthy public works

or shall enable or further the erection or maintenance of public structures.

(c) Those which shall otherwise lessen the burdens borne by government or which are voluntarily undertaken by an authorized organization to augment or supplement services which government would normally render to the people, including, in the case of volunteer firemen's activities, the purchase, erection or maintenance of a building for a firehouse, activities open to the public for the enhancement of membership, and the purchase of equipment which can reasonably be expected to increase the efficiency of response to fires, accidents, public calamities and other emergencies.

d. Those which shall initiate, perform or foster the provisions of services to veterans by encouraging the gathering of such veterans and shall enable or further the erection or maintenance of facilities for use by such veterans which shall be used primarily for charitable or patriotic purposes, or those purposes which shall be authorized by a bona fide organization of veterans, provided however that such proceeds are disbursed pursuant to section one hundred eighty-nine of this article.

6. "Net proceeds" shall mean (a) in relation to the gross receipts from one or more license periods of games of chance, the amount that shall remain after deducting the reasonable sums necessarily and actually expended for supplies and equipment, prizes, security-personnel, stated rental if any, bookkeeping or accounting services according to a schedule of compensation prescribed by the board, janitorial services and utility supplies if any, license fees, and the cost of bus transportation, if authorized by the clerk or department and (b) in relation to the gross rent received by an authorized games of chance lessor for the use of its premises by a game of chance licensee, the amount that shall remain after deducting the reasonable sums necessarily and actually

expended for janitorial services and utility supplies directly attributable thereto if any.

7. "Net lease" shall mean a written agreement between a lessor and lessee under the terms of which the lessee is entitled to the possession, use or occupancy of the whole or part of any premises from any non-commercial or non-profit authorized games of chance lessor for which the lessee pays rent to the lessor and likewise undertakes to pay substantially all of the regularly recurring expenses incident to the operation and maintenance of such leased premises.

8. "Authorized games of chance lessor" shall mean an authorized organization which has been granted a lessor's license pursuant to the provisions of this article or a municipality.

9. "Single type of game" shall mean the games of chance known as merchandise wheels, raffles and bell jars and each other specific game of chance authorized by the board.

10. "Operation" shall mean the play of a single type of game of chance necessary to determine the outcome or winners each time wagers are made. A single drawing of a winning ticket or other receipt in a raffle shall be deemed one operation.

11. "Single prize" shall mean the sum of money or actual value of merchandise awarded to a participant by a games of chance licensee in any one operation of a single type of game of chance in excess of his wager.

12. "Series of prizes" shall mean the total amount of single prizes minus the total amount of wagers lost during the successive operations of a single type of game of chance, except that for merchandise wheels and raffles, "series of prizes" shall mean the sum of cash and the fair market value of merchandise awarded as single prizes during the successive operations of any single merchandise wheel or raffle.

13. "Authorized supplier of games of chance equipment" shall mean any person, firm, partnership, corporation or organization licensed by the board to sell or lease games of chance equipment or paraphernalia which

meets the specifications and regulations established by the board. Nothing herein shall prevent an authorized organization from purchasing common articles, such as cards and dice, from normal sources of supply of such articles or from constructing equipment and paraphernalia for games of chance for its own use. However, no such equipment or paraphernalia, constructed or owned by an authorized organization shall be sold or leased to any other authorized organization, without written permission from the board.

14. "One occasion" shall mean the successive operations of any one single type of game of chance which results in the awarding of a series of prizes amounting to five hundred dollars or four hundred dollars during any one license period, in accordance with the provisions of subdivision eight of section one hundred eighty-nine of this chapter, as the case may be. For purposes of the game of chance known as a merchandise wheel or a raffle, "one occasion" shall mean the successive operations of any one such merchandise wheel or raffle for which the limit on a series of prizes provided by subdivision six of section one hundred eighty-nine of this chapter shall apply. For purposes of the game of chance known as a bell jar, "one occasion" shall mean the successive operation of any one such bell jar which results in the awarding of a series of prizes amounting to three thousand dollars.

15. "License period" shall mean a period of time not to exceed fourteen consecutive hours and, for purposes of the game of chance known as a bell jar and a raffle, "license period" shall mean a period of time running from January first to December thirty-first of each year.

16. "Clerk" shall mean the clerk of a municipality outside the city of New York.

17. "Officer" shall mean the chief law enforcement officer of a municipality outside the city of New York, or if such municipality exercises the option set forth in subdivision two of section one hundred ninety-four of this article, the chief law enforcement officer of the county.

18. "Department" shall mean the New York City Department of Consumer Affairs.

19. "Premises" shall mean a designated area within a building, hall, tent, or grounds reasonably identified for the conduct of games of chance. Nothing herein shall require such area to be enclosed.

20. "Games of chance currency" shall mean legal tender or a form of scrip or chip authorized by the board, any of which may be used at the discretion of the games of chance licensee.

21. "Flare" shall mean a minimum of an eight and one-half inch by eleven inch poster description of the bell jar game, which shall include a declaration of the number of winners and amount of prizes in each deal, the number of prizes available in the deal, the number of tickets in each deal which contain the stated prize; the manufacturer's game form number, and the serial number of the deal which shall be identical to the serial number imprinted on each ticket contained in the deal.

Sec. 187. Local option.

Subject to the provisions of this article, and pursuant to the direction contained in subdivision two of section nine of article one of the constitution of the state, the legislature hereby gives and grants to every municipality the right, power and authority to authorize the conduct of games of chance by authorized organizations within the territorial limits of such municipality. A local law or ordinance adopted by a town shall be operative in any village or within any part of any village located within such town if, after adoption of such local law or ordinance, the board of trustees of such village adopts a local law or resolution subject to a permissive referendum as provided in article nine of the village law authorizing the issuance of licenses by the town for games of chance within such village. Such local law or resolution may be repealed only by a local law or resolution which shall also be subject to a permissive referendum, or by enactment of a local law authorizing games of chance as provided in section one hundred eighty-eight of this article.

Sec. 188. Local laws and ordinances.

1. The common council or other local legislative body of any municipality may, either by local law or ordinance, provide that it shall be lawful for any authorized organization, upon obtaining a license therefor as hereinafter provided, to conduct games of chance within the territorial limits of such municipality, subject to the

provisions of such local law or ordinance, the provisions of this article, and the provisions set forth by the board.

2. No such local law or ordinance shall become operative or effective unless and until it shall have been approved by a majority of the electors voting on a proposition submitted at a general or special election held within such municipality who are qualified to vote for officers of such municipality.

3. The time, method and manner of submission, preparation and provision of ballots and ballot labels, balloting by voting machine and conducting the election, canvassing the result and making and filing the returns and all other procedure with reference to the submission of and action upon any proposition for the approval of any such local law or ordinance shall be the same as in the case of any other proposition to be submitted to the electors of such municipality at a general or special election in such municipality, as provided by law.

Sec. 188-a. Powers and duties of the board.

The board shall have the power and it shall be its duty to:

1. Supervise the administration of the games of chance licensing law and to adopt, amend and repeal rules and regulations governing the issuance and amendment of licenses thereunder and the conducting of games under such licenses, which rules and regulations shall have the force and effect of law and shall be binding upon all municipalities issuing licenses, and upon licensees of the board, to the end that such licenses shall be issued to qualified licensees only, and that said games shall be fairly and properly conducted for the purposes and in the manner of the said games of chance licensing law prescribed and to prevent the games of chance thereby authorized to be conducted from being conducted for commercial purposes or purposes other than those therein authorized, participated in by criminal or other undesirable elements and the funds derived from the games being diverted from the purposes authorized, and to provide uniformity in the administration of said law throughout the state, the board shall prescribe forms of application for licenses, licensees, amendment of licenses, reports of the conduct of games and other matters incident to the administration of such law.

2. Conduct, anywhere in the state, investigations of the administration, enforcement and potential or actual violations of the games of chance licensing law and of the rules and regulations of the board.

3. Review all determinations and actions of the clerk or department in issuing an initial license and it may review the issuance of subsequent licenses and, after hearing, revoke those licenses which do not in all respects meet the requirements of this article and the rules and regulations of the board.

4. Suspend or revoke a license, after hearing, for any violation of the provisions of this article or the rules and regulations of the board.

5. Hear appeals from the determinations and action of the clerk, department or officer in connection with the refusing to issue licenses, the suspension and revocation of licenses and the imposition of fines in the manner prescribed by law and the action and determination of the board upon any such appeal shall be binding upon the clerk, department or officer and all parties thereto.

6. Carry on continuous study of the operation of the games of chance licensing law to ascertain from time to time defects therein jeopardizing or threatening to jeopardize the purposes of this article, and to formulate and recommend changes in such law and in other laws of the state which the board may determine to be necessary for the realization of such purposes, and to the same end to make a continuous study of the operation and administration of similar laws which may be in effect in other states of the United States.

7. Supervise the disposition of all funds derived from the conduct of games of chance by authorized organizations not currently licensed to conduct such games.

8. Issue an identification number to an applicant authorized organization if it shall determine that the applicant satisfies the

requirements of the games of chance licensing law and the rules and regulations of the board.

9. The board shall have the power to approve and establish a standard set of games of chance equipment and shall by its rules and regulations prescribe the manner in which such equipment is to be reproduced and distributed to licensed authorized organizations. The sale or distribution to a licensed authorized organization of any equipment other than that contained in the standard set of games of chance equipment shall constitute a violation of this section.

S 189. Restrictions upon conduct of games of chance.

The conduct of games of chance authorized by local law or ordinance shall be subject to the following restrictions irrespective of whether the restrictions are contained in such local law or ordinance, but nothing herein shall be construed to prevent the inclusion within such local law or ordinance of other provisions imposing additional restrictions upon the conduct of such games:

1. No person, firm, partnership, corporation or organization, other than a licensee under the provisions of section one hundred ninety-one of this article, shall conduct such game or shall lease or otherwise make available for conducting games of chance premises for any consideration whatsoever, direct or indirect.

2. No game of chance shall be held, operated or conducted on or within any leased premises if rental under such lease is to be paid, wholly or partly, on the basis of a percentage of the receipts or net profits derived from the operation of such game.

3. No authorized organization licensed under the provisions of this article shall purchase or receive any supplies or equipment specifically designed or adapted for use in the conduct of games of chance from other than a supplier licensed by the board or from another authorized organization. Furthermore, no organization shall purchase bell jar tickets, or deals of bell jar tickets from any other person or organization other than those specifically authorized under sections one hundred ninety-five-n and one hundred ninety-five-o of this article.

4. The entire net proceeds of any game of chance shall be exclusively devoted to the lawful purposes of the organization permitted to conduct the same and the net proceeds of any rental derived therefrom shall be exclusively devoted to the lawful purposes of the authorized games of chance lessor.

5. No single prize awarded by games of chance other than raffle shall exceed the sum or value of three hundred dollars, except that for merchandise wheels, no single prize shall exceed the sum or value of two hundred fifty dollars. No single prize awarded by raffle shall exceed the sum or value of fifty thousand dollars, except that an authorized organization may award by raffle a single prize having a value of up to and including one hundred thousand dollars if its

application for a license filed pursuant to section one hundred ninety of this article includes a statement of its intent to award a prize having such value. No single wager shall exceed six dollars and for bell jars, no single prize shall exceed five hundred dollars provided, however, that such limitation shall not apply to the amount of money or value paid by the participant in a raffle in return for a ticket or other receipt.

6. No authorized organization shall award a series of prizes consisting of cash or of merchandise with an aggregate value in excess of ten thousand dollars during the successive operations of any one merchandise wheel, and three thousand dollars during the successive operations of any bell jar. No series of prizes awarded by raffle shall have an aggregate value in excess of one hundred thousand dollars.

7. In addition to merchandise wheels, raffles and bell jars, no more than five other single types of games of chance shall be conducted during any one license period.

8. Except for merchandise wheels and raffles, no series of prizes on any one occasion shall aggregate more than four hundred dollars when the licensed authorized organization conducts five single types of games of chance during any one license period. Except for merchandise wheels, raffles and bell jars, no series of prizes on any one occasion shall aggregate more than five hundred dollars when the licensed authorized organization conducts less than five single types of games of chance, exclusive of merchandise wheels, raffles and bell jars, during any one license period. No authorized organization shall award by raffle prizes with an aggregate value in excess of one hundred thousand dollars during any one license period.

9. Except for the limitations on the sum or value for single prizes and series of prizes, no limit shall be imposed on the sum or value of prizes awarded to any one participant during any occasion or any license period.

10. No person except a bona fide member of the licensed authorized organization shall participate in the management of such games; no person except a bona fide member of the licensed authorized organization, its auxiliary or affiliated organization, shall participate in the operation of such game, as set forth in section one hundred ninety-five-c of this article.

11. No person shall receive any remuneration for participating in the management or operation of any such game.

12. No authorized organization shall extend credit to a person to participate in playing a game of chance.

13. No game of chance shall be conducted on other than the premises of an authorized organization or an authorized games of chance lessor. Nothing herein shall prohibit the sale of raffle tickets to the public outside the premises of an authorized organization or an authorized games of chance lessor; provided, however, that no sale of raffle tickets shall be made more than one hundred eighty days prior to the date scheduled for the occasion at which the raffle will be conducted. The winner of any single prize in a raffle shall not be required to be present at the time such raffle is conducted.

14. The unauthorized conduct of a game of chance shall constitute and be punishable as a misdemeanor.

S 189-a. Authorized supplier of games of chance equipment.

No

person, firm, partnership, corporation or organization, shall sell or distribute supplies or equipment specifically designed or adapted for use in conduct of games of chance without having first obtained a license therefor upon written application made, verified and filed with the board in the form prescribed by the rules and regulations of the board. Manufacturers of bell jar tickets shall be considered suppliers of such equipment. In each such application for a license under this section shall be stated the name and address of the applicant; the names and addresses of its officers, directors, shareholders or partners; the amount of gross receipts realized on the sale and rental of games of chance supplies and equipment to duly licensed authorized organizations during the last preceding calendar or fiscal year, and such other information as shall be prescribed by such rules and regulations. The fee for such license shall be a sum equal to twenty-five dollars plus an amount equal to two per centum of the gross sales and rentals, if any, of games of chance equipment and supplies to authorized organizations or authorized games of chance lessors by the applicant during the preceding calendar year, or fiscal year if the applicant maintains his accounts on a fiscal year basis. No license granted pursuant to the provisions of this section shall be effective for a period of more than one year.

(a) The following shall be ineligible for such a license:

(1) a person convicted of a crime who has not received a pardon, a certificate of good conduct or a certificate of relief from disabilities;

(2) a person who is or has been a professional gambler or gambling promoter or who for other reasons is not of good moral character;

(3) a public officer or employee;

(4) an authorized games of chance lessor;

(5) a firm or corporation in which a person defined in subdivision (1), (2), (3) or (4) above has greater than a ten per centum proprietary, equitable or credit interest or in which such a person is active or employed.

(b) The board shall have power to examine or cause to be examined the books and records of any applicant for a license, under this section. Any information so received shall not be disclosed except so far as may be necessary for the purpose of carrying out the provisions of this article.

(c) Any solicitation of an organization licensed to conduct games of chance, to purchase or induce the purchase of games of chance supplies and equipment, other than by a person licensed or otherwise authorized pursuant to this section shall constitute a violation of this section.

(d) Any person who willfully shall make any material false statement in any application for a license authorized to be issued under this section or who willfully shall violate any of the provisions of this section or of any license issued hereunder shall be guilty of a misdemeanor and, in addition to the penalties in such case made and provided, shall forfeit any license issued to him or it under this section and be ineligible to apply for a license under this section for one year thereafter.

(e) At the end of such period specified in the license, a recapitulation shall be made as between the licensee and the board in respect of the gross sales and rentals actually recorded during that period and the fee paid therefor, and any deficiency of fee thereby shown to be due shall be paid by the licensee and any excess of fee

thereby shown to have been paid shall be credited to said licensee in such manner as the board by the rules and regulations shall prescribe.

S 189-b. Declaration of state's exemption from operation of provisions of 15 U.S.C. (1172).

Pursuant to section two of an Act of Congress of the United States entitled "An act to prohibit transportation of gambling devices in interstate and foreign commerce," approved January second, nineteen hundred fifty-one, being chapter 1194, 64 Stat. 1134, and also designated as 15 U.S.C. (1171-1177), the state of New York, acting by and through the duly elected and qualified members of its legislature, does hereby, in accordance with and in compliance with the provisions of section two of said Act of Congress, declare and proclaim that it is exempt from the provisions of section two of said Act of Congress.

S 189-c. Legal shipments of gaming devices into New York state.

All shipments into this state of gaming devices, excluding slot machines and coin operated gambling devices, as defined in subdivision seven-a of section 225.00 of the penal law, the registering, recording and labeling of which has been duly had by the manufacturer or dealer thereof in accordance with sections three and four of an Act of Congress of the United States entitled "An act to prohibit transportation of gambling devices in interstate and foreign commerce," approved January second, nineteen hundred fifty-one, being chapter 1194, 64 Stat. 1134, and also designated as 15 U.S.C. (1171-1177), shall be deemed legal shipments thereof into this state.

S 190. Application for license.

1. To conduct games of chance. (a)
Each applicant for a license shall, after obtaining an identification number from the board, file with the clerk or department, a written

application therefor in a form to be prescribed by the board,
duly

executed and verified, in which shall be stated:

(1) the name and address of the applicant together with
sufficient
facts relating to its incorporation and organization to enable
such
clerk or department, as the case may be, to determine whether or not
it
is a bona fide authorized organization;

(2) the names and addresses of its officers; the place or
places
where, the date or dates and the time or times when the
applicant
intends to conduct games under the license applied for;

(3) the amount of rent to be paid or other consideration to be
given
directly or indirectly for each licensed period for use of the
premises
of an authorized games of chance lessor;

(4) all other items of expense intended to be incurred or paid
in
connection with the holding, operating and conducting of such games
of
chance and the names and addresses of the persons to whom, and the
purposes for which, they are to be paid;

(5) the purposes to which the entire net proceeds of such games are
to
be devoted and in what manner; that no commission, salary,
compensation,
reward or recompense will be paid to any person for conducting such
game
or games or for assisting therein except as in this article
otherwise
provided; and such other information as shall be prescribed by
such
rules and regulations.

(6) the name of each single type of game of chance to be
conducted
under the license applied for and the number of merchandise wheels
and
raffles, if any, to be operated.

(b) In each application there shall be designated not less than
four
bona fide members of the applicant organization under whom the game
or
games of chance will be managed and to the application shall be
appended
a statement executed by the members so designated, that they will
be
responsible for the management of such games in accordance with
the
terms of the license, the rules and regulations of the board,
this
article and the applicable local laws or ordinances.

2. Authorized games of chance lessor: Each applicant for a license to lease premises to a licensed organization for the purposes of conducting games of chance therein shall file with the clerk or department, a written application therefor in a form to be prescribed by the board duly executed and verified, which shall set forth the name and address of the applicant; designation and address of the premises intended to be covered by the license sought; a statement that the applicant in all respects conforms with the specifications contained in the definition of "authorized organization" set forth in section one hundred eighty-six of this article; a statement of the lawful purposes to which the net proceeds from any rental are to be devoted by the applicant, and such other information as shall be prescribed by the board.

3. In counties outside the city of New York, municipalities may, pursuant to section one hundred eighty-eight of this article, adopt an ordinance providing that an authorized organization having obtained an identification number from the board and having applied for no more than one license to conduct games of chance during the period not less than twelve nor more than eighteen months immediately preceding may file with the clerk or department a summary application in a form to be prescribed by the board duly executed and verified, containing the names and addresses of the applicant organization and its officers, the date, time and place or places where the applicant intends to conduct games under the license applied for, the purposes to which the entire net proceeds of such games are to be devoted and the information and statement required by paragraph (b) of subdivision one of this section in lieu of the application required under subdivision one of this section.

S 191. Investigation; matters to be determined; issuance of license; fees; duration of license.

1. The clerk or department shall make an investigation of the qualifications of each applicant and the merits of

each application, with due expedition after the filing of the application.

(a) Issuance of licenses to conduct games of chance. If such clerk or department shall determine that the applicant is duly qualified to be licensed to conduct games of chance under this article; that the member or members of the applicant designated in the application to manage games of chance are bona fide active members of the applicant and are persons of good moral character and have never been convicted of a crime, or, if convicted, have received a pardon, a certificate of good conduct or a certificate of relief from disabilities; that such games are to be conducted in accordance with the provisions of this article and in accordance with the rules and regulations of the board and applicable local laws or ordinances and that the proceeds thereof are to be disposed of as provided by this article, and if such clerk or department is satisfied that no commission, salary, compensation, reward or recompense whatever will be paid or given to any person managing, operating or assisting therein except as in this article otherwise provided; it shall issue a license to the applicant for the conduct of games of chance upon payment of a license fee of twenty-five dollars for each license period.

(b) Issuance of licenses to authorized games of chance lessors. If such clerk or department shall determine that the applicant seeking to lease premises for the conduct of games of chance to a games of chance licensee is duly qualified to be licensed under this article; that the applicant satisfies the requirements for an authorized organization as defined in section one hundred eighty-six of this article; that the applicant has filed its proposed rent for each license period and that the clerk or department has approved the proposed rent as fair and reasonable; that the net proceeds from any rental will be devoted to the lawful purposes of the applicant; that there is no diversion of the funds of the proposed lessee from the lawful purposes as defined in this article; and that such leasing

of premises for the conduct of such games is to be in accordance with the provisions of this article, with the rules and regulations of the board and applicable local laws and ordinances, it shall issue a license permitting the applicant to lease said premises for the conduct of such games to the games of chance licensee or licensees specified in the application during the period therein specified or such shorter period as such clerk or department shall determine, but not to exceed twelve license periods during a calendar year, upon payment of a license fee of fifty dollars. Nothing herein shall be construed to require the applicant to be licensed under this article to conduct games of chance.

(c) Issuance of license upon summary application. If, upon the basis of a summary application as prescribed under subdivision three of section one hundred ninety of this article, the clerk or department shall determine that the applicant is duly qualified to be licensed to conduct games of chance under this article, said clerk or department shall forthwith issue said license. In the event the clerk or department has reason to believe that the applicant is not so qualified the applicant shall be directed to file an application pursuant to subdivision one of section one hundred ninety of this article.

2. On or before the thirtieth day of each month, the treasurer of the municipality in which the licensed property is located shall transmit to the state comptroller a sum equal to fifty percent of all authorized games of chance lessor license fees and the sum of fifteen dollars per license period for the conduct of games of chance collected by such clerk or department pursuant to this section during the preceding calendar month.

3. No license shall be issued under this section which shall be effective for a period of more than one year.

Sec. 192. Hearing; amendment of license.

1. No application for the issuance of a license to conduct games of chance or lease

premises to an authorized organization shall be denied by the clerk or department, until after a hearing, held on due notice to the applicant, at which the applicant shall be entitled to be heard upon the qualifications of the applicant and the merits of the application.

2. Any license issued under this article may be amended, upon application made to such clerk or department which issued it, if the subject matter of the proposed amendment could lawfully and properly have been included in the original license and upon payment of such additional license fee if any, as would have been payable if it had been so included.

S 193. Form and contents of license; display of license.

1. Each license to conduct games of chance shall be in such form as shall be prescribed in the rules and regulations promulgated by the board, and shall contain a statement of the name and address of the licensee, of the names and addresses of the members of the licensee under whom the games will be managed, of the place or places where and the date or dates and time or times when such games are to be conducted and of the purposes to which the entire net proceeds of such games are to be devoted; the name of each single type of game to be conducted under the license and the number of merchandise wheels and raffles, if any, to be operated; and any other information which may be required by said rules and regulations to be contained therein, and each license issued for the conduct of any games shall be conspicuously displayed at the place where same is to be conducted at all times during the conduct thereof.

2. Each license to lease premises for conducting games of chance will be in such form as shall be prescribed in the rules and regulations of the board and shall contain a statement of the name and address of the licensee and the address of the leased premises, the amount of permissible rent and any information which may be required by said rules and regulations to be contained therein, and each such license shall be conspicuously displayed upon such premises at all times during the conduct of games of chance.

S 194. Control and supervision; suspension of identification numbers and licenses; inspection of premises.

1. The officer or department, shall have and exercise rigid control and close supervision over all games of chance conducted under such license, to the end that the same are fairly conducted in accordance with the provisions of such license, the provisions of the rules and regulations promulgated by the board, and the provisions of this article, and such officer or department and the board shall have the power and the authority to temporarily suspend any license issued by the clerk or department pending a hearing and after notice and hearing, the clerk, department or board may suspend or revoke the same, declare the violator ineligible to apply for a license for a period not exceeding twelve months thereafter, and additionally, impose a fine in an amount not exceeding one thousand dollars for violation of any such provisions, which shall not be paid from funds derived from the conduct of games of chance, and shall have the right of entry, by their respective officers and agents, at all times into any premises where any game of chance is being conducted or where it is intended that any such game shall be conducted, or where any equipment being used or intended to be used in the conduct thereof is found, for the purpose of inspecting the same. Upon suspension or revocation of any license or upon declaration of ineligibility to apply for a license, the board may suspend or revoke the identification number issued pursuant to section one hundred eighty-eight-a of this article. An agent of the appropriate officer or department shall make an on site inspection during the conduct of all games of chance licensed pursuant to this article.

2. A municipality may, by local law or ordinance enacted pursuant to the provisions of section one hundred eighty-eight of this article, provide that the powers and duties set forth in subdivision one of this

section, shall be exercised by the chief law enforcement officer of the county. In the event a municipality exercises this option the fees provided for by subdivision two of section one hundred ninety-five-f of this article, shall be remitted to the chief fiscal officer of the county.

3. Service of alcoholic beverages. Subject to the applicable provisions of the alcoholic beverage control law, beer may be offered for sale during the conduct of games of chance on games of chance premises as such premises are defined in subdivision nineteen of section one hundred eighty-six of this article; provided, however, that nothing herein shall be construed to limit the offering for sale of any other alcoholic beverage in areas other than the games of chance premises or the sale of any other alcoholic beverage in premises where only the games of chance known as bell jar or raffles are conducted.

Sec. 195. Sunday; conduct of games on.

Except as provided in section one hundred ninety-five-b of this article, no games of chance shall be conducted under any license issued under this article on the first day of the week, commonly known and designated as Sunday, unless it shall be otherwise provided in the license issued for the conducting thereof, pursuant to the provisions of a local law or an ordinance duly adopted by the governing body of the municipality wherein the license is issued, authorizing the conduct of games of chance under this article on that day only between the hours of noon and midnight. Notwithstanding the foregoing provisions of this section no games of chance shall be conducted on Easter Sunday, Christmas Day or New Year`s Eve.

Sec. 195-a. Participation by persons under eighteen.

No person under the age of eighteen years shall be permitted to play any game or games of chance conducted pursuant to any license issued under this article. Persons under the age of eighteen years may be permitted to attend games of chance at the discretion of the games of chance licensee. No person under the age of eighteen years shall be permitted to operate any game of chance conducted pursuant to any license issued under this article or to assist therein.

S 195-b. Frequency of games.

No game or games of chance, shall be conducted under any license issued under this article more often than twelve times in any calendar year. No particular premises shall be used for the conduct of games of chance on more than twenty-four license periods during any one calendar year. Games shall be conducted only between the hours of noon and midnight on Monday, Tuesday, Wednesday and Thursday, and only between the hours of noon on Friday and two A.M. Saturday, and only between the hours of noon on Saturday and two A.M. Sunday. The two A.M. closing period shall also apply to a legal holiday. The above restrictions shall not apply when only the game of chance known as the bell jar is conducted.

S 195-c. Persons operating games; equipment; expenses; compensation.

No person shall operate any game of chance under any license issued under this article except a bona fide member of the authorized organization to which the license is issued, or a bona fide member of an organization or association which is an auxiliary to the licensee or a bona fide member of an organization or association of which such licensee is an auxiliary or a bona fide member of an organization or association which is affiliated with the licensee by being, with it, auxiliary to another organization or association. Nothing herein shall be construed to limit the number of games of chance licensees for whom such persons may operate games of chance nor to prevent non-members from assisting the licensee in any activity other than managing or operating games. No game of chance shall be conducted with any equipment except such as shall be owned or leased by the authorized organization so licensed or used without payment of any compensation therefor by the licensee. However, in no event shall bell jar tickets be transferred from one authorized organization to another, with or without payment of any compensation thereof. The head or heads of the authorized organization shall upon request certify, under oath, that the persons operating any game of chance are bona fide members of such authorized organization, auxiliary or affiliated organization. Upon request by an officer or the department any such person involved in such games of chance shall certify that he or she has no criminal record. No items of expense shall be incurred or paid in connection with the conducting of any game of chance pursuant to any license issued under this article except those that are reasonable and are necessarily expended for games of chance supplies and equipment, prizes, security personnel, stated rental if any, bookkeeping or accounting services according to a schedule of compensation prescribed by the board, janitorial services and utility supplies if any, and license fees, and the cost of bus transportation, if authorized by such clerk or department.

Sec. 195-d. Charge for admission and participation; amount of prizes; award of prizes.

A fee may be charged by any licensee for admission to any game or games of chance conducted under any license issued under this article. The clerk or department may in its discretion fix a minimum fee. Every winner shall be determined and every prize shall be awarded and delivered within the same calendar day as that upon which the game was played. No alcoholic beverage shall be offered or given as a prize in any game of chance.

Sec. 195-e. Advertising games.

A licensee may advertise the conduct of games of chance to the general public by means of newspaper, circular, handbill and poster, and by one sign not exceeding sixty square feet in area, which may be displayed on or adjacent to the premises owned or occupied by a licensed authorized organization, and when an organization is licensed to conduct games of chance on premises of an authorized games of chance lessor, one additional such sign may be displayed on or adjacent to the premises in which the games are to be conducted. Additional signs may be displayed upon any fire fighting equipment belonging to any licensed authorized organization which is a volunteer fire company, or upon any equipment of a first aid or rescue squad in and throughout the community served by such volunteer fire company or such first aid or rescue squad, as the case may be. All advertisements shall be limited to the description of such event as "Games of chance" or "Las Vegas Night", the name of the authorized organization conducting such games, the license number of the authorized organization as assigned by the clerk or department and the date, location and time of the event.

S 195-f. Statement of receipts, expenses; additional license fees.

1. Within seven days after the conclusion of any license period other than a license period for a raffle, or as otherwise prescribed by the board, the authorized organization which conducted the same, and its members who were in charge thereof, and when applicable the authorized games of chance lessor which rented its premises therefor, shall each furnish to the clerk or department a statement subscribed by the member in charge and affirmed by him as true, under the penalties of perjury, showing the amount of the gross receipts derived therefrom and each item of expense incurred, or paid, and each item of expenditure made or to be made other than prizes, the name and address of each person to whom each such item of expense has been paid, or is to be paid, with a detailed description of the merchandise purchased or the services rendered therefor, the net proceeds derived from the conduct of games of chance during such license period, and the use to which such proceeds have been or are to be applied and it shall be the duty of each licensee to maintain and keep such books and records as may be necessary to substantiate the particulars of each such

statement.

2. Within thirty days after the conclusion of an occasion at which a raffle was conducted, the authorized organization conducting such raffle and the members in charge of such raffle, and, when applicable, the authorized games of chance lessor which rented its premises therefor, shall each furnish to the clerk or department a statement on a form prescribed by the board, subscribed by the member in charge and affirmed by him as true, under the penalties of perjury, showing the number of tickets printed, the number of tickets sold, the price, and the number of tickets returned to or retained by the authorized organization as unsold, a description and statement of the fair market value for each prize actually awarded, the amount of the gross receipts derived therefrom, each item of expenditure made or to be made other than prizes, the name and address of each person to whom each such item of expense has been paid, or is to be paid, a detailed description of the merchandise purchased or the services rendered therefor, the net proceeds derived from the raffle at such occasion, the use to which the proceeds have been or are to be applied and shall be the duty of each licensee to maintain and keep such books and records as may be necessary to substantiate the particulars of each such statement.

3. Any authorized organization required to file an annual report with the secretary of state pursuant to article seven-A of the executive law or the attorney general pursuant to article eight of the estates, powers and trusts law shall include with such annual report a copy of the statement required to be filed with the clerk or department pursuant to subdivision one or two of this section.

4. Upon the filing of such statement of receipts pursuant to subdivision one or two of this section, the authorized organization furnishing the same shall pay to the clerk or department as and for an additional license fee a sum based upon the reported net proceeds, if any, for the license period, or in the case of raffles, for the occasion covered by such statement and determined in accordance with such schedule as shall be established from time to time by the board to defray the actual cost to municipalities or counties of administering the provisions of this article, but such additional license fee shall not exceed five percent of the net proceeds for such license period. The provisions of this subdivision shall not apply to the net proceeds from the sale of bell jar tickets.

Sec. 195-g. Examination of books and records; examination of officers and employees; disclosure of information.

The clerk or department and the board shall have power to examine or cause to be examined the books and records of:

1. Any authorized organization which is or has been licensed to conduct games of chance, so far as they may relate to games of chance including the maintenance, control and disposition of net proceeds derived from games of chance or from the use of its premises for games of chance, and to examine any manager, officer, director, agent, member or employee thereof under oath in relation to the conduct of any such game under any such license, the use of its premises for games of chance, or the disposition of net proceeds derived from games of chance, as the case may be.

2. Any authorized games of chance lessor so far as they may relate to leasing premises for games of chance and to examine said lessor or any manager, officer, director, agent or employee thereof under oath in relation to such leasing.

Any information so received shall not be disclosed except so far as may be necessary for the purpose of carrying out the provisions of this article.

Sec. 195-h. Appeals from the decision of an officer, clerk or department to board.

Any applicant for, or holder of, any license issued or to be issued under this article aggrieved by any action of an officer, clerk or department, to which such application has been made or by which such license has been issued, may appeal to the board from the determination of said officer, clerk, or department by filing with such officer, clerk, or department a written notice of appeal within thirty days after the determination or action appealed from, and upon the hearing of such appeal, the evidence, if any, taken before such officer, clerk, or department and any additional evidence may be produced and shall be considered in arriving at a determination of the matters in issue, and the action of the board upon said appeal shall be binding upon such officer, clerk, or department and all parties to said appeal.

Sec. 195-i. Exemption from prosecution.

No person, firm, partnership, corporation or organization lawfully conducting, or participating in the conduct of games of chance or permitting the conduct upon any premises owned or leased by him or it under any license lawfully issued pursuant to this article, shall be liable to prosecution or conviction for violation of any provision of article two hundred twenty-five of the penal law or any other law or ordinance to the extent that such conduct is specifically authorized by this article, but this immunity shall not extend to any person or corporation knowingly conducting or participating in the conduct of games of chance under any license obtained by any false pretense or by any false statement made in any application for license or otherwise, or permitting the conduct upon any premises owned or leased by him or it of any game of chance conducted under any license known to him or it to have been obtained by any such false pretense or statement.

Sec. 195-j. Offenses; forfeiture of license; ineligibility to apply for license.

Any person, firm, partnership, corporation or organization who or which shall:

- (1) make any material false statement in any application for any license authorized to be issued under this article;
- (2) pay or receive, for the use of any premises for conducting games of chance, a rental in excess of the amount specified as the permissible rent in the license provided for in subdivision two of section one hundred ninety-three of this article;

(3) fail to keep such books and records as shall fully and truly record all transactions connected with the conducting of games of chance or the leasing of premises to be used for the conduct of games of chance;

(4) falsify or make any false entry in any books or records so far as they relate in any manner to the conduct of games of chance, to the disposition of the proceeds thereof and to the application of the rents received by any authorized organization;

(5) divert or pay any portion of the net proceeds of any game of chance to any person, firm, partnership, corporation, except in furtherance of one or more of the lawful purposes defined in this article;

shall be guilty of a misdemeanor and shall forfeit any license issued under this article and be ineligible to apply for a license under this article for at least one year thereafter.

Sec. 195-k. Unlawful games of chance.

1. Any person, association, corporation or organization holding, operating, or conducting a game or games of chance is guilty of a misdemeanor, except when operating, holding or conducting:

(a) In accordance with a valid license issued pursuant to this article or

(b) On behalf of a bona fide organization of persons sixty years of age or over, commonly referred to as senior citizens, solely for the purpose of amusement and recreation of its members where (i) the organization has applied for and received an identification number from the board, (ii) no player or other person furnishes anything of value for the opportunity to participate, (iii) the prizes awarded or to be awarded are nominal, (iv) no person other than a bona fide active member of the organization participates in the conduct of the games, and (v) no person is paid for conducting or assisting in the conduct of the game or games.

2. The provisions of this section shall apply to all municipalities within this state, including those municipalities where this article is inoperative.

Sec. 195-l. Article inoperative until adopted by voters.

Except as provided in section one hundred ninety-five-k of this article, the provisions of this article shall remain inoperative in any municipality unless and until a proposition therefor submitted at a general or special election in such municipality shall be approved by a vote of the majority of the qualified electors in such municipality voting thereon.

Sec. 195-m. Amendment and repeal of local laws and ordinances.

Any such local law or ordinance may be amended, from time to time, or repealed by the common council or other local legislative body of the municipality which enacted it by a two-thirds vote of such legislative body and such amendment or

repeal, as the case may be, may be made effective and operative not earlier than thirty days following the date of enactment of the local law or ordinance effecting such amendment or repeal, as the case may be; and the approval of a majority of the electors of such municipality shall not be a condition prerequisite to the taking effect of such local law or ordinance.

S 195-n. Manufacturers of bell jars; reports and records.

1.

Distribution; manufacturers. For business conducted in this state, manufacturers licensed by the board to sell bell jar tickets shall sell only such tickets to distributors licensed by the board. Any manufacturer who violates the provisions of this section shall be guilty of a class E felony.

2. Bar codes. The manufacturer shall affix to the flare of each bell jar game a bar code that provides all information prescribed by the board and shall require that the bar code include the serial number of the game the flare describes. A manufacturer shall also affix to the outside of the container or wrapping containing a deal of bell jar tickets a bar code providing all information prescribed by the board and containing the same information as the bar code affixed to the flare. The board may also prescribe additional bar code requirements. No person may alter the bar code that appears on the flare or on the outside of the container or wrapping containing a deal of bell jar tickets. Possession of a deal of bell jar tickets that has a bar code different from the serial number of the deal inside the container or wrapping as evidenced on the flare is prima facie evidence that the possessor has altered the bar code on the container or wrapping.

3. Bell jar flares. (a) A manufacturer shall not ship or cause to be shipped into this state any deal of bell jar tickets that does not have its own individual flare as required for that deal by rule of the board. A person other than a licensed manufacturer shall not manufacture, alter, modify, or otherwise change a flare for a deal of bell jar tickets except as authorized by this article or rules and regulations promulgated by the board.

(b) The flare for each deal of bell jar tickets sold by a manufacturer in this state shall be placed inside the wrapping of the deal which the flare describes.

(c) The bar code affixed to the flare of each bell jar game shall bear the serial number of such game as prescribed by the board but each number within the serial number shall be printed in characters not less than one-half inch high.

(d) The flare of each bell jar game shall have affixed at the bottom a bar code that provides: (1) the name of the game; (2) the serial number of the game; (3) the name of the manufacturer; (4) the number of tickets in the deal; and (5) other information the board by rule may require. The serial number included on the bar code shall be the same as the serial number of the tickets included in the deal. A manufacturer who manufactures a deal of bell jar tickets shall affix to the outside of the container or wrapping containing the bell jar tickets the same bar code that is affixed to the bottom of the flare for that deal.

(e) No person shall alter the bar code that appears on the outside of a container or wrapping containing a deal of bell jar tickets. Possession of a deal of bell jars that has a bar code different from

the bar code of the deal inside the container or wrapping is prima facie evidence that the possessor has altered the bar code on the box.

4. Reports of sales. A manufacturer who sells bell jar tickets for resale in this state shall file with the board, on a form prescribed by the board, a report of all bell jar tickets sold to distributors in the state. The report shall be filed monthly on or before the twentieth day of the month succeeding the month in which the sale was made. The board may require that the report be submitted via magnetic media or electronic data transfer.

5. Inspection. The board may inspect the premises, books, records, and inventory of a manufacturer without notice during the normal business hours of the manufacturer.

§ 195-o. Distributor of bell jars; reports and records.

1.

Distribution; distributors. Any distributor licensed in accordance with section one hundred eighty-nine-a of this article to distribute bell jar tickets shall purchase bell jar tickets to be sold in New York state only from licensed manufacturers. Licensed distributors of bell jar tickets shall sell such tickets only to not-for-profit, charitable or religious organizations registered by the board. Any person or distributor who violates this section shall be guilty of a class E felony.

2. Business records. A distributor shall keep at each place of business complete and accurate records for that place of business, including itemized invoices of bell jar tickets held and purchased. The records must show the names and addresses of purchasers, the inventory at the close of each period for which a return is required, all bell jar tickets on hand, and other pertinent papers and documents relating to the purchase, sale, or disposition of bell jar tickets as may be required by the board. Books, records, itemized invoices, and other papers and documents required by this section shall be kept for a period of at least four years after the date of the documents, or the date of the entries appearing in the records, unless the board authorizes in writing their destruction or disposal at an earlier date. A person who violates this section shall be guilty of a misdemeanor.

3. Sales records. A distributor shall maintain a record of all bell jar tickets that it sells. The record shall include, but need not be limited to:

(a) the identity of the manufacturer from whom the distributor purchased the product;

(b) the serial number of the product;

(c) the name, address, and license or exempt permit number of the organization or person to which the sale was made;

(d) the date of the sale;

(e) the name of the person who ordered the product;

(f) the name of the person who received the product;

(g) the type of product;

(h) the serial number of the product;

(i) the account number identifying the sale from the manufacturer to distributor and the account number identifying the sale from the distributor to the licensed organization; and

(j) the name, form number, or other identifying information for each game.

4. Invoices. A distributor shall supply with each sale of a bell jar product an itemized invoice showing the distributor's name and address, the purchaser's name, address, and license number, the date of the sale, the account number identifying the sale from the manufacturer to distributor and the account number identifying the sale from the distributor to the licensed organization, and the description of the deals, including the form number, the serial number and the ideal gross from every deal of bell jar or similar game.

5. Reports. A distributor shall report monthly to the board, on a form prescribed by the board, its sales of each type of bell jar deal or tickets. This report shall be filed monthly on or before the twentieth day of the month succeeding the month in which the sale was made. The board may require that a distributor submit the monthly report and invoices required by this section via magnetic media or electronic data transfer.

6. The board may inspect the premises, books, records, and inventory of a distributor without notice during the normal business hours of the distributor.

7. Certified physical inventory. The board may, upon request, require a distributor to furnish a certified physical inventory of all bell jar tickets in stock. The inventory shall contain the information requested by the board.

S 195-p. Transfer restrictions.

Not-for-profit, charitable or religious organizations authorized to sell bell jar tickets in accordance with this article shall purchase bell jar tickets only from distributors licensed by the board. No not-for-profit, charitable, or religious organization shall sell, donate, or otherwise transfer bell jar tickets to any other not-for-profit, charitable or religious organization.

S 195-q. Bell jar compliance and enforcement.

In the case of bell jars, the licensee, upon filing financial statements of bell jar operations, shall also tender to the board a sum in the amount of five percent of the net proceeds as defined in this paragraph, from the sale of bell jar tickets, if any, for that portion of license period covered by such statement. For the purposes of this section, "net proceeds" shall mean the difference between the ideal handle from the sale of bell jar tickets less the amount of money paid out in prizes. Additionally, a credit shall be permitted against the net proceeds fee tendered to the board for unsold tickets of the bell jar deal as long as the unsold tickets have the same serial number as the tickets for which the fee is rendered. Such unsold tickets must be kept on file by the selling organization for inspection by the board for a period of one year following the date upon which the relevant financial statement was received by the board.

1. One-half of one percent of such fee received from authorized volunteer fire companies shall be paid to the New York state emergency services revolving loan account established pursuant to section ninety-seven-pp of the state finance law.

2. The racing and wagering board shall submit to the director of the division of the budget an annual plan that details the amount of money

the racing and wagering board deems necessary to maintain operations, compliance and enforcement of the provisions of this article and the collection of the license fee authorized by this section. Contingent upon the approval of the director of the division of the budget, the racing and wagering board shall pay into an account, to be known as the bell jar collection account, under the joint custody of the comptroller and the board, the total amount of license fees collected pursuant to this section. With the approval of the director of the division of the budget, monies to be utilized to maintain the operations necessary to enforce the provisions of this article and the collection of the license fee imposed by this section shall be paid out of such account on the audit and warrant of the comptroller on vouchers certified or approved by the director of the division of the budget or his duly designated official. Those monies that are not utilized to maintain operations necessary to enforce the provisions of this article and the collection of the license fee authorized by this section shall be paid out of such amount on the audit and warrant of the state comptroller and shall be credited to the general fund.

S 195-r. Severability.

If any provision of this article or the application thereof to any municipality, person or circumstances shall be adjudged unconstitutional by any court of competent jurisdiction, the remainder of this article or the application thereof to other municipalities, persons and circumstances shall not be affected thereby, and the legislature hereby declares that it would have enacted this article without the invalid provision or application, as the case may be, had such invalidity been apparent.

ARTICLE 14-H. LOCAL OPTION FOR CONDUCT OF BINGO BY CERTAIN ORGANIZATIONS

Sec. 475. Short title; purpose of article.

This article shall be known and may be cited as the bingo licensing law. The legislature hereby declares that the raising of funds for the promotion of bona fide charitable, educational, scientific, health, religious, civic and patriotic causes and undertakings, where the beneficiaries are indefinite, is in the public interest. It hereby finds that, as conducted prior to the enactment of this article, bingo was the subject of exploitation by professional gamblers, promoters, and commercial interests. It is hereby declared to be the policy of the legislature that all phases of the supervision, licensing and regulation of bingo and of the conduct of bingo games, should be closely controlled and that the laws and regulations pertaining thereto should be strictly construed and rigidly enforced; that the conduct of the game and all attendant activities should be so regulated and adequate controls so instituted as to discourage commercialization in all its forms, including the rental of commercial premises for bingo games, and to ensure a maximum availability of the net proceeds of bingo exclusively for application to the worthy causes and undertakings specified herein; that the only

justification for this article is to foster and support such worthy causes and undertakings, and that the mandate of section nine of article one of the state constitution, as amended, should be carried out by rigid regulation to prevent commercialized gambling, prevent participation by criminal and other undesirable elements and prevent the diversion of funds from the purposes herein authorized.

S 476. Definitions.

As used in this article, the following terms shall have the following meanings:

1. "Municipality" shall mean any city, town or village within the state.

2. "Control commission" or "commission" shall mean the state racing and wagering board.

3. "Bingo" or "game" shall mean and include a specific game of chance, commonly known as bingo or lotto, in which prizes are awarded on the basis of designated numbers or symbols on a card conforming to numbers or symbols selected at random.

4. "Authorized organization" shall mean and include any bona fide religious or charitable organization or bona fide educational, fraternal, civic or service organization or bona fide organization of veterans, volunteer firefighters, or volunteer ambulance workers, which by its charter, certificate of incorporation, constitution, or act of the legislature, shall have among its dominant purposes one or more of the lawful purposes as defined in this article, provided that each shall operate without profit to its members, and provided that each such organization has engaged in serving one or more of the lawful purposes as defined in this article for a period of one year immediately prior to applying for a license under this article.

5. "Bingo control law" shall mean article nineteen-B of the executive law.

6. "Lawful purposes" shall mean one or more of the following causes, deeds or activities:

(a) Those which shall benefit needy or deserving persons indefinite in number by enhancing their opportunity for religious or educational

advancement, by relieving them from disease, suffering or distress, or by contributing to their physical well-being, by assisting them in establishing themselves in life as worthy and useful citizens, or by increasing their comprehension of and devotion to the principles upon which this nation was founded and enhancing their loyalty to their governments;

(b) Those which shall initiate, perform or foster worthy public works or shall enable or further the erection or maintenance of public structures;

(c) Those which shall initiate, perform or foster the provisions of services to veterans by encouraging the gathering of such veterans and shall enable or further the erection or maintenance of facilities for use by such veterans which shall be used primarily for charitable or patriotic purposes, or those purposes which shall be authorized by a bona fide organization of veterans, provided however that such proceeds are disbursed in accordance with the rules and regulations of the racing and wagering board.

(d) Those which shall otherwise lessen the burdens borne by government or which are voluntarily undertaken by an authorized organization to augment or supplement services which government would normally render to the people.

7. "Net proceeds" shall mean (a) in relation to the gross receipts from one or more occasions of bingo, the amount that shall remain after deducting the reasonable sums necessarily and actually expended for bingo supplies and equipment, prizes, stated rental if any, bookkeeping or accounting services according to a schedule of compensation prescribed by the commission, janitorial services and utility supplies if any, license fees, and the cost of bus transportation, if authorized by the control commission, and (b) in relation to the gross rent received by an organization licensed to conduct bingo for the use of its

premises by another licensee, the amount that shall remain after deduct-
ing the reasonable sums necessarily and actually expended for janitorial services and utility supplies directly attributable thereto if any.

8. "Net lease" shall mean a written agreement between a lessor and lessee under the terms of which the lessee is entitled to the possession, use or occupancy of the whole or part of any commercial premises for which the lessee pays rent to the lessor and likewise undertakes to pay substantially all of the regularly recurring expenses incident to the operation and maintenance of such leased premises.

9. "Authorized commercial lessor" shall mean a person, firm or corporation other than a licensee to conduct bingo under the provisions of this article, who or which shall own or be a net lessee of premises and offer the same for leasing by him or it to an authorized organization for any consideration whatsoever, direct or indirect, for the purpose of conducting bingo therein, provided that he or it, as the case may be, shall not be

(a) a person convicted of a crime who has not received a pardon or a certificate of good conduct;

(b) a person who is or has been a professional gambler or gambling promoter or who for other reasons is not of good moral character;

(c) a public officer who receives any consideration, direct or indirect, as owner or lessor of premises offered for the purpose of conducting bingo therein;

(d) a firm or corporation in which a person defined in subdivision

(a), (b) or (c) above or a person married or related in the first degree

to such a person has greater than a ten percentum (10 %) proprietary,

equitable or credit interest or in which such a person is active or employed.

Nothing contained in this subdivision shall be construed to bar any

firm or corporation which is not organized for pecuniary profit and no

part of the net earnings of which inure to the benefit of any individual,

member, or shareholder, from being an authorized commercial lessor

solely because a public officer, or a person married or related in the first degree to a public officer, is a member of, active in or employed by such firm or corporation.

10. "Limited period bingo" shall mean the conduct of bingo by a licensed authorized organization, for a period of not more than seven of twelve consecutive days in any one year, at a festival, bazaar, carnival or similar function conducted by such licensed authorized organization.

No authorized organization licensed to conduct limited period bingo shall be otherwise eligible to conduct bingo pursuant to this article in the same year.

11. "Supercard" shall mean a bingo card on which prizes are awarded, which card is selected by the player, containing five designated numbers, colors or symbols, corresponding to the letters B, I, N, G, O, displayed on the bingo board of the bingo premises operator, which can be played concurrently with the other bingo cards played during the game of bingo.

11-a. "Early bird" shall mean a bingo game which is played as a special game, conducted not more than twice during a bingo occasion, in which prizes are awarded based upon a percentage not to exceed seventy-five percent of the sum of money received from the sale of the early bird cards and which is neither subject to the prize limits imposed by subdivisions five and six of section four hundred seventy-nine and paragraph (a) of subdivision one of section four hundred eighty-one, nor the special game opportunity charge limit imposed by section four hundred eighty-nine of this article. The percentage shall be specified both in the application for bingo license and the license. Not more than one dollar shall be charged per card with the total amount collected from the sale of the early bird cards and the prize for each game to be announced before the commencement of each game.

12. "Prize", where supercard is played as set forth in subdivision

eleven of this section, shall mean the sum of money or actual value of merchandise awarded to the winner or winners on a game card during a game of bingo and the sum of money or actual value of merchandise awarded to the winner or winners on a supercard in excess of the total receipts derived from the sale of supercards for that specific game.

Sec. 477. Local option.

Subject to the provisions of this article, and pursuant to the direction contained in subdivision two of section nine of article one of the constitution of the state, the legislature hereby gives and grants to every municipality the right, power and authority to authorize the conduct of bingo games by authorized organizations within the territorial limits of such municipality provided, however, that where the electors of a village shall hereafter approve a local law or ordinance pursuant to section four hundred seventy-eight of this article, the right, power and authority under this article of any town in which such village is located shall not extend to such village during such time as such village local law or ordinance is in effect.

Sec. 478. Local laws and ordinances.

1. The common council or other local legislative body of any municipality may, either by local law or ordinance, provide that it shall be lawful for any authorized organization, upon obtaining a license therefor as hereinafter provided, to conduct the game of bingo within the territorial limits of such municipality, subject to the provisions of such local law or ordinance, the provisions of this article, and the provisions of the bingo control law.

2. No such local law or ordinance shall become operative or effective unless and until it shall have been approved by a majority of the electors voting on a proposition submitted at a general or special election held within such municipality who are qualified to vote for officers of such municipality.

3. The time, method and manner of submission, preparation and provision of ballots and ballot labels, balloting by voting machine and conducting the election, canvassing the result and making and filing the returns and all other procedure with reference to the submission of and action upon any proposition for the approval of any such local law or ordinance shall be the same as in the case of any other proposition to be submitted to the electors of such municipality at a general or special election in such municipality, as provided by law.

S 479. Restrictions upon conduct of bingo games.

The conduct of bingo

games authorized by local law or ordinance shall be subject to the following restrictions irrespective of whether the restrictions are contained in such local law or ordinance; but nothing herein shall be construed to prevent the inclusion within such local law or ordinance of other provisions imposing additional restrictions upon the conduct of bingo games:

1. No person, firm, association, corporation or organization, other than a licensee under the provisions of this article, shall conduct such game or shall lease or otherwise make available for conducting bingo a hall or other premises for any consideration whatsoever, direct or indirect.

2. No bingo games shall be held, operated or conducted on or within any leased premises if rental under such lease is to be paid, wholly or partly, on the basis of a percentage of the receipts or net profits derived from the operation of such game.

3. No authorized organization licensed under the provisions of this article shall purchase or receive any supplies or equipment specifically designed or adapted for use in the conduct of bingo games from other than a supplier licensed under the bingo control law or from another authorized organization.

4. The entire net proceeds of any game of bingo and of any rental shall be exclusively devoted to the lawful purposes of the organization permitted to conduct the same.

5. No prize shall exceed the sum or value of one thousand dollars in any single game of bingo.

6. No series of prizes on any one bingo occasion shall aggregate more than three thousand dollars.

7. No person except a bona fide member of any such organization shall participate in the management or operation of such game.

8. No person shall receive any remuneration for participating in the management or operation of any game of bingo.

9. The unauthorized conduct of a bingo game and any wilful violation of any provision of any local law or ordinance shall constitute and be

punishable as a misdemeanor.

10. Limited period bingo shall be conducted in accordance with the provisions of this article and the rules and regulations of the commission.

Sec. 480. Application for license.

1. To conduct bingo.

(a) Each applicant for a license shall, after obtaining an identification number from the control commission, file with the clerk of the municipality a written application therefor in the form prescribed in the rules and regulations of the control commission, duly executed and verified, in which shall be stated:

(1) the name and address of the applicant together with sufficient facts relating to its incorporation and organization to enable the governing body of the municipality to determine whether or not it is a bona fide authorized organization;

(2) the names and addresses of its officers; the place or places where, the date or dates and the time or times when the applicant intends to conduct bingo under the license applied for;

(3) in case the applicant intends to lease premises for this purpose from other than an authorized organization, the name and address of the licensed commercial lessor of such premises, and the capacity or potential capacity for public assembly purposes of space in any premises presently owned or occupied by the applicant;

(4) the amount of rent to be paid or other consideration to be given directly or indirectly for each occasion for use of the premises of another authorized organization licensed under this article to conduct bingo or for use of the premises of a licensed commercial lessor;

(5) all other items of expense intended to be incurred or paid in connection with the holding, operating and conducting of such games of bingo and the names and addresses of the persons to whom, and the purposes for which, they are to be paid;

(6) the specific purposes to which the entire net proceeds of such games are to be devoted and in what manner; that no commission, salary, compensation, reward or recompense will be paid to any person for conducting such bingo game or games or for assisting therein except as in this article otherwise provided; and such other information as shall be prescribed by such rules and regulations.

(b) In each application there shall be designated an active member or members of the applicant organization under whom the game or games of bingo will be conducted and to the application shall be appended a statement executed by the member or members so designated, that he or they will be responsible for the conduct of such bingo games in accordance with the terms of the license, and the rules and regulations of the commission and of this article.

2. Commercial lessor. (a) Each applicant for a license to lease premises to a licensed organization for the purposes of conducting bingo therein shall file with the clerk of the municipality a written application therefor in a form prescribed

in the rules and regulations of the control commission duly executed and verified, which shall set forth the name and address of the applicant; designation and address of the premises intended to be covered by the license sought; lawful capacity for public assembly purposes; cost of premises and assessed valuation for real estate tax purposes, or annual net lease rent, whichever is applicable; gross rentals received and itemized expenses for the immediately preceding calendar or fiscal year, if any; gross rentals, if any, derived from bingo during the last preceding calendar or fiscal year; computation by which proposed rental schedule was determined; number of occasions on which applicant anticipates receiving rent for bingo during the ensuing year or shorter period if applicable; proposed rent for each such occasion; estimated gross rental income from all other sources during the ensuing year; estimated expenses itemized for ensuing year and amount of each item allocated to bingo rentals; a statement that the applicant in all respects conforms with the specifications contained in the definition of "authorized commercial lessor" set forth in section four hundred seventy-six of this article, and such other information as shall be prescribed by such rules and regulations.

(b) At the end of the license period, a recapitulation, in a manner prescribed in the rules and regulations of the commission, shall be made as between the licensee and the municipal governing body in respect of the gross rental actually received during the license period and the fee paid therefor, and any deficiency of fee thereby shown to be due shall be paid by the licensee and any excess of fee thereby shown to have been paid shall be credited to said licensee, in such manner as the commission by rules and regulations shall prescribe.

S 481. Investigation; matters to be determined; issuance of license; fees; duration of license.

1. The governing body of the municipality shall make an investigation of the qualifications of each applicant and the merits of each application, with due expedition after the filing of the application.

(a) Issuance of licenses to conduct bingo. If the governing body of the municipality shall determine that the applicant is duly qualified to be licensed to conduct bingo under this article; that the member or members of the applicant designated in the application to conduct bingo are bona fide active members of the applicant and are persons of good moral character and have never been convicted of a crime or, if convicted, have received a pardon or a certificate of good conduct; that such games are to be conducted in accordance with the provisions of this

article and in accordance with the rules and regulations of the commission, and that the proceeds thereof are to be disposed of as provided by this article, and if the governing body is satisfied that no commission, salary, compensation, reward or recompense whatever will be paid or given to any person holding, operating or conducting or assisting in the holding, operation and conduct of any such games except as in this article otherwise provided; and that no prize will be offered and given in excess of the sum or value of one thousand dollars in any single game and that the aggregate of all prizes offered and given in all of such games conducted on a single occasion, under said license shall not exceed the sum or value of three thousand dollars, it shall issue a license to the applicant for the conduct of bingo upon payment of a license fee of eighteen dollars and seventy-five cents for each bingo occasion; provided, however, that the governing body shall refuse to issue a license to an applicant seeking to conduct bingo in premises of a licensed commercial lessor where it determines that the premises presently owned or occupied by said applicant are in every respect adequate and suitable for conducting bingo games.

(b) Issuance of licenses to commercial lessors. If the governing body of the municipality shall determine that the applicant seeking to lease a hall or premises for the conduct of bingo to an authorized organization is duly qualified to be licensed under this article; that the applicant satisfies the requirements for an authorized commercial lessor as defined in section four hundred seventy-six that at the time of the issuance of an initial license, the governing body of the municipality shall find and determine that there is a public need and that public advantage will be served by the issuance of such license; that the applicant has filed its proposed rent for each bingo occasion; that the commission has approved as fair and reasonable a schedule of

maximum rentals for each such occasion; that there is no diversion of the funds of the proposed lessee from the lawful purposes as defined in this article; and that such leasing of a hall or premises for the conduct of bingo is to be in accordance with the provisions of this article and in accordance with the rules and regulations of the commission, it shall issue a license permitting the applicant to lease said premises for the conduct of bingo to the authorized organization or organizations specified in the application during the period therein specified or such shorter period as the governing body of the municipality shall determine, but not to exceed one year, upon payment of a license fee of ten dollars plus an amount based upon the aggregate rent specified in the license and determined in accordance with the following schedule:

aggregate rental of	\$100 to	\$499 . . .	\$5.00
aggregate rental of	\$500 to	\$999 . . .	\$25.00
aggregate rental of	\$1,000 to	\$2,499 . . .	\$50.00
aggregate rental of	\$2,500 to	\$4,999 . . .	\$125.00
aggregate rental of	\$5,000 to	\$9,999 . . .	\$250.00
aggregate rental of	\$10,000 to	\$49,999 . . .	\$500.00
aggregate rental of	\$50,000 to	\$100,000 . . .	\$2,500.00
aggregate rental in excess of	\$100,000 . . .		\$5,000.00

2. On or before the thirtieth day of each month, the treasurer of the municipality shall transmit to the state comptroller a sum equal to fifty percent of all commercial lessor license fees and the sum of eleven dollars and twenty-five cents per occasion of all license fees for the conduct of bingo collected by such municipality pursuant to this section during the preceding calendar month.

3. No license shall be issued under this article which shall be effective for a period of more than one year. In the case of limited period bingo, no license shall be issued authorizing the conduct of such games on more than two occasions in any one day nor shall any license be issued under this article which shall be effective for a period of more than seven of twelve consecutive days in any one year. No license for

the conduct of limited period bingo shall be issued in cities having a population of one million or more.

Sec. 482. Hearing; amendment of license.

1. No application for the issuance of a license shall be denied by the governing body until after a hearing, held on due notice to the applicant, at which the applicant shall be entitled to be heard upon the qualifications of the applicant and the merits of the application.

2. Any license issued under this article may be amended, upon application made to the governing body of the municipality which issued it, if the subject matter of the proposed amendment could lawfully and properly have been included in the original license and upon payment of such additional license fee if any, as would have been payable if it had been so included.

S 483. Form and contents of license; display of license.

1. Each license to conduct bingo shall be in such form as shall be prescribed in the rules and regulations promulgated by the control commission, and shall contain a statement of the name and address of the licensee, of the names and addresses of the member or members of the licensee under whom the games will be conducted, of the place or places where and the date or dates and time or times when such games are to be conducted and of the specific purposes to which the entire net proceeds of such games are to be devoted; if any prize or prizes are to be offered and given in cash, a statement of the amounts of the prizes authorized so to be offered and given; and any other information which may be required by said rules and regulations to be contained therein, and each license issued for the conduct of any game shall be conspicuously displayed at the place where same is to be conducted at all times during the conduct thereof.

2. Each license to lease premises for conducting bingo shall be in such form as shall be prescribed in the rules and regulations of the control commission and shall contain a statement of the name and address

of the licensee and the address of the leased premises, the amount of permissible rent and any other information which may be required by said rules and regulations to be contained therein, and each such license shall be conspicuously displayed upon such premises at all times during the conduct of bingo.

S 484. Control and supervision; suspension of licenses; inspection of premises.

1. The governing body of any municipality issuing any license under this article shall have and exercise rigid control and close supervision over all games of bingo conducted under such license, to the end that the same are fairly conducted in accordance with the provisions of such license, the provisions of the rules and regulations promulgated by the control commission and the provisions of this article and such governing body and the control commission shall have the power and the authority to suspend any license issued by such governing body and to revoke the same, and, additionally, in the case of an authorized commercial lessor, to impose a fine in an amount not exceeding one thousand dollars, after notice and hearing, for violation of any such provisions, and shall have the right of entry, by their respective officers and agents, at all times into any premises where any game of bingo is being conducted or where it is intended that any such game shall be conducted, or where any equipment being used or intended to be used in the conduct thereof is found, for the purpose of inspecting the same.

2. In addition to the authority granted pursuant to subdivision one of this section, the governing body and the control commission, in a city having a population of one million or more, may impose a fine in an amount not exceeding one thousand dollars, after notice and hearing, on any licensee under this article for violation of any provision of such license, this article or rules and regulations promulgated pursuant thereto.

Sec. 485. Sunday; conduct of games on.

No games of bingo shall be conducted under any license issued under this article on the first day of the week, commonly known as designated as Sunday, unless it shall be otherwise provided in the license issued for the holding, operating and conducting thereof, pursuant to the provisions of a local law or an ordinance duly adopted by the governing body of the municipality issuing the license, authorizing the conduct of bingo under this article on that day.

Sec. 486. Participation by persons under eighteen.

No person under the age of eighteen years shall be permitted to play any game or games of bingo conducted pursuant to any license

issued under this article unless accompanied by an adult. No person under the age of eighteen years shall be permitted to conduct or assist in the conduct of any game of bingo conducted pursuant to any license issued under this article.

Sec. 487. Frequency of game; sale of alcoholic beverages.

No game or games of bingo, except limited period bingo, shall be conducted under any license issued under this article more often than on eighteen days in any three successive calendar months. No game or games of limited period bingo shall be conducted between the hours of twelve midnight postmeridian and noon, and no more than sixty games may be conducted on any single occasion of limited period bingo. No game or games of bingo shall be conducted in any room or outdoor area where alcoholic beverages are sold, served or consumed during the progress of the game or games.

S 488. Persons operating and conducting games; equipment; expenses; compensation.

1. No person shall hold, operate or conduct any game of bingo under any license issued under this article except a bona fide member of the authorized organization to which the license is issued, and no person shall assist in the holding, operating or conducting of any game of bingo under such license except such a bona fide member or a bona fide member of an organization or association which is an auxiliary to the licensee or a bona fide member of an organization or association of which such licensee is an auxiliary or a bona fide member of an organization or association which is affiliated with the licensee by being, with it, auxiliary to another organization or association and except bookkeepers or accountants as hereinafter provided. Provided, however, any person may assist the licensed organization in any activity related to the game of bingo which does not actually involve the holding, conducting, managing or operating of such game of bingo. No game of bingo shall be conducted with any equipment except such as shall

be owned absolutely by the authorized organization so licensed or used without payment of any compensation therefor by the licensee. No items of expense shall be incurred or paid in connection with the conducting of any game of bingo pursuant to any license issued under this article, except those that are reasonable and are necessarily expended for bingo supplies and equipment, prizes, stated rental if any, bookkeeping or accounting services according to a schedule of compensation prescribed by the commission, janitorial services and utility supplies if any, and license fees, and the cost of bus transportation, if authorized by the control commission.

2. Notwithstanding any provision of this article to the contrary, a person who is a bona fide member of an organization licensed to conduct the game of bingo and is also a bona fide member of one or more other organizations which are also licensed to conduct the game of bingo, and such organizations are not affiliates or auxiliaries of the others, shall be authorized to operate, conduct or assist in the operation or conduct of games of bingo held by any of such organizations licensed to conduct bingo.

S 489. Charge for admission and participation; amount of prizes; award of prizes.

Except in the conduct of limited period bingo, not more than five dollars shall be charged by any licensee for admission to any room or place in which any game or games of bingo are to be conducted under any license issued under this article, which admission fee, upon payment thereof, shall entitle the person paying the same to participate without additional charge in all regular games of bingo to be played under such license on such occasion. The commission may in its discretion fix a minimum fee. In the conduct of limited period bingo:

(a) no admission fee shall be charged, (b) not more than twenty-five cents shall be charged for a single opportunity to participate in any

one game, which charge, upon payment thereof, shall entitle the person paying the same to one card for participation in one such game, and (c) no licensee shall sell more than five opportunities to each player participating in any one game. Every winner shall be determined and every prize shall be awarded and delivered within the same calendar day as that upon which the game was played. No alcoholic beverage shall be offered or given as a prize in any game of bingo.

§ 490. Advertising of bingo games.

A licensee may advertise the conduct of an occasion of bingo to the general public by means of newspaper, radio, circular, handbill and poster, and by one sign not exceeding sixty square feet in area, which may be displayed on or adjacent to the premises owned or occupied by a licensed authorized organization, and when an organization is licensed to conduct bingo occasions on the premises of another licensed authorized organization or of a licensed commercial lessor, one additional such sign may be displayed on or adjacent to the premises in which the occasions are to be conducted. Additional signs may be displayed upon any firefighting equipment belonging to any licensed authorized organization which is a volunteer fire company, or upon any equipment of a first aid or rescue squad in and throughout the community served by such volunteer fire company or such first aid or rescue squad, as the case may be. All advertisements shall be limited to the description of such event as "bingo", the name of the licensed authorized organization conducting such occasions, the license number of the authorized organization as assigned by the clerk and the date, location and time of the bingo occasion.

Sec. 491. Statement of receipts, expenses; additional license fees.

1. Within seven days after the conclusion of any occasion of bingo, the authorized organization which conducted the same, and its members who were in charge thereof, and when applicable the authorized organization which rented its premises therefor, shall each furnish to the clerk of the municipality a statement subscribed by the member in charge and affirmed by him as true, under the penalties of perjury, showing the amount of the gross receipts derived therefrom and each item of expense incurred, or paid, and each item of expenditure made or to be made, the name and address of each person to whom each such item has been paid, or is to be paid, with a detailed description of the merchandise purchased or the services rendered therefor, the net proceeds derived from such game or rental, as the case may be, and the use to which such proceeds have been or are to be applied and a list of prizes offered and given, with the respective values thereof, and it shall be the duty of each licensee to maintain and keep such books and records as may be necessary to substantiate the particulars of each such statement and within fifteen days after the end of each calendar quarter during which there has been any occasion of bingo, a summary statement of such information, in form prescribed by the state, shall be furnished in the same manner to the state racing and wagering board.

2. Upon the filing of such statement of receipts, the authorized organization furnishing the same shall pay to the clerk of the municipality as and for an additional license fee a sum based upon the reported net proceeds, if any, for the occasion covered by such statement and determined in accordance with such schedule as shall be established from time to time by the commission to defray the cost to municipalities of administering the provisions of this article and of article nineteen-B of the executive law.

Sec. 492. Examination of books and records; examination of managers, etc.; disclosure of information.

The governing body of the municipality and the control commission shall have power to examine or cause to be examined the books and records of

1. Any authorized organization which is or has been licensed to conduct bingo, so far as they may relate to bingo including the maintenance, control and disposition of net proceeds derived from bingo or from the use of its premises for bingo, and to examine any manager, officer, director, agent, member or employee thereof under oath in relation to the conduct of any such game under any such license, the use of its premises for bingo, or the disposition of net proceeds derived from bingo, as the case may be.

2. Any licensed authorized commercial lessor so far as they may relate to leasing premises for bingo and to examine said lessor or any manager, officer, director, agent or employee thereof under oath in relation to such leasing.

Any information so received shall not be disclosed except so far as may be necessary for the purpose of carrying out the provisions of this article, and article nineteen-B of the executive law.

Sec. 493. Appeals from municipal governing body to control commission.

Any applicant for, or holder of, any license issued or to be issued under this article aggrieved by any action of the governing body of the municipality to which such application has been made or by which such license has been issued, may appeal to the control commission from the determination of said governing body by filing with the governing body a written notice of appeal within thirty days after the determination or action appealed from, and upon the hearing of such appeal, the evidence, if any, taken before the governing body and any additional evidence may be produced and shall be considered in arriving at a determination of the matters in issue, and the action of the control commission upon said appeal shall be binding upon said governing body and all parties to said appeal.

Sec. 494. Exemption from prosecution.

No person or corporation lawfully conducting, or participating in the conduct of bingo or permitting the conduct upon any premises owned or leased by him or it under any license lawfully issued pursuant to this article, shall be liable to prosecution or conviction for violation of any provision of article two hundred twenty-five of the penal law or any other law or ordinance to the extent that such conduct is specifically authorized by this article, but this immunity shall not extend to any person or corporation knowingly conducting or participating in the conduct of bingo under any license obtained by any false pretense or by any false statement made in any application for license or otherwise, or permitting the conduct upon any premises owned or leased by him or it of any game of bingo conducted under any license known to him or it to

have been obtained by any such false pretense or statement.

S 495. Offenses; forfeiture of license; ineligibility to apply for license.

Any person, association or corporation who or which shall:

(1) make any false statement in any application for any license authorized to be issued under this article;

(2) pay or receive, for the use of any premises for conducting bingo, a rental in excess of the amount specified as the permissible rent in the license provided for in subdivision two of section four hundred eighty of this article;

(3) fail to keep such books and records as shall fully and truly record all transactions connected with the conducting of bingo or the leasing of premises to be used for the conduct of bingo;

(4) falsify or make any false entry in any books or records so far as they relate in any manner to the conduct of bingo, to the disposition of the proceeds thereof and to the application of the rents received by any authorized organization;

(5) divert or pay any portion of the net proceeds of any game of bingo to any person, association or corporation, except in furtherance of one or more of the lawful purposes defined in this article; or

(6) violate any of the provisions of this article or of any term of any license issued under this article;

shall be guilty of a misdemeanor and shall forfeit any license issued under this article and be ineligible to apply for a license under this article for one year thereafter.

S 495-a. Unlawful bingo or game.

1. For the purposes of this section, "bingo" or "game" shall mean and include a specific game or chance, commonly known as bingo or lotto, in which prizes are awarded on the basis of designated numbers or symbols on a card conforming to numbers or symbols selected at random, whether or not a person who participates as a player furnishes something of value for the opportunity to participate.

2. Any person, firm, partnership, association, corporation or organization holding, operating, or conducting bingo or a game is guilty of a misdemeanor, except when operating, holding or conducting:

(a) In accordance with a valid license issued pursuant to this article, or

(b) Within the confines of a home for purposes of amusement or recreation where (i) no player or other person furnishes anything of

value for the opportunity to participate (ii) participation in such game does not exceed fifteen players, and (iii) the prizes awarded or to be awarded are nominal.

(c) On behalf of a bona fide organization of persons fifty-five years of age or over, commonly referred to as senior citizens, solely for the purpose of amusement and recreation of its members where (i) the organization has applied for and received an identification number from the bingo control commission, (ii) no player or other person furnishes anything of value for the opportunity to participate, (iii) the prizes awarded or to be awarded are nominal, (iv) no person other than a bona fide active member of the organization participates in the conduct of the games, and (v) no person is paid for conducting or assisting in the conduct of the game or games.

(d) As a hotel's social activity solely for the purpose of amusement and recreation of its guests where (i) the hotel has applied for and received an identification number from the state racing and wagering board, (ii) no player or other person furnishes anything of value for the opportunity to participate, (iii) the value of the prizes to be awarded shall not exceed five dollars for any one game or a total of one hundred dollars in any calendar day, (iv) no person other than a hotel employee or a volunteer conducts or assists in conducting the game or games, and (v) the game or games are not conducted in the same room where alcoholic beverages are sold.

3. The provisions of this section shall apply to all municipalities within this state, including those municipalities where this article is inoperative.

Sec. 496. Article inoperative until adopted by voters.

Except as provided in section 495-a, the provisions of this article shall remain inoperative in any municipality unless and until a proposition therefor submitted at a general or special election in such municipality shall be approved by a vote of the majority of the qualified electors in such municipality voting

thereon.

Sec. 497. Amendment and repeal of local laws and ordinances.

Any such local law or ordinance may be amended, from time to time, or repealed by the common council or other local legislative body of the municipality which enacted it and such amendment or repeal, as the case may be, may be made effective and operative not earlier than thirty days following the date of enactment of the local law or ordinance effecting such amendment or repeal, as the case may be; and the approval of a majority of the electors of such municipality shall not be a condition prerequisite to the taking effect of such local law or ordinance.

Sec. 498. Delegation of authority.

The governing body of a municipality may delegate to an officer or officers thereof designated by it for that purpose any of the authority granted to it hereby in relation to the issuance, amendment and cancellation of licenses, the conduct of investigations and hearings, the supervision of the operation of the games and the collection and transmission of fees.

Sec. 498-a. Powers and duties of mayors or managers of certain cities.

Notwithstanding any other provision of this article, whenever the charter of any city, or any special or local law, provides that the mayor or manager of such city is the chief law enforcement officer thereof, then and in that event such mayor or manager, as the case may be, shall have, exercise and perform all the powers and duties otherwise prescribed by this article to be exercised and performed by the governing body of such city except those prescribed by section four hundred seventy-eight hereof, and in any such case, the term "governing body of a municipality" as used in this article shall be deemed to mean and include the mayor or manager of any such city.

Sec. 499. Severability.

If any provision of this article or the application thereof to any municipality, person or circumstances shall be adjudged unconstitutional by any court of competent jurisdiction, the remainder of this article or the application thereof to other municipalities, persons and circumstances shall not be affected thereby, and the legislature hereby declares that it would have enacted this article without the invalid provision or application, as the case may be, had such invalidity been apparent.

GENERAL OBLIGATIONS LAW

ARTICLE 5. CREATION, DEFINITION AND ENFORCEMENT OF CONTRACTUAL OBLIGATIONS

TITLE 4. CONTRACTS RELATING TO WAGERING; FORFEITURE AND RECOVERY OF CERTAIN PROPERTY

Sec. 5-413. Securities for money lost at gaming, void.

All things in action, judgments, mortgages, conveyances, and every other security whatsoever, given or executed, by any person, where the whole or any part of the consideration of the same shall be for any money or other valuable thing won by playing at any game whatsoever, or won by betting on the hands or sides of such as do play at any game, or where the same shall be made for the repaying any money knowingly lent or advanced for the purpose of such gaming or betting aforesaid, or lent or advanced at the time and place of such play, to any person so gaming or betting aforesaid, or to any person who during such play, shall play or bet, shall be utterly void, except where such securities, conveyances or mortgages shall affect any real estate, when the same shall be void as to the grantee therein, so far only as hereinafter declared. When any securities, mortgages or other conveyances, executed for the whole or part of any consideration specified in the preceding paragraph shall affect any real estate, they shall inure for the sole benefit of such person as would be entitled to the said real estate, if the grantor or person incumbering the same, had died, immediately upon the execution of such instrument, and shall be deemed to be taken and held to and for the use of the person who would be so entitled. All grants, covenants and conveyances, for preventing such real estate from coming to, or devolving upon, the person hereby intended to enjoy the same as aforesaid, or in any way incumbering or charging the same, so as to prevent such person from enjoying the same fully and entirely, shall be deemed fraudulent and void.

MILITARY LAW

ARTICLE 11. PRIVILEGES, PROHIBITIONS AND PENALTIES

Sec. 239. Trespassers and disturbers to be placed in arrest; sales and gambling prohibited.

1. Any person who shall trespass upon any armory, arsenal, camp, range, base or other facility of the organized militia or other place where any unit of the organized militia is performing military duty, or who shall in any way or manner interrupt or molest the discharge of his military duties by any member of the organized militia or of the armed forces of the United States or who shall trespass or prevent the passage of troops of the organized militia or of the armed forces of the United States in the performance of their military duties may be placed in arrest by the commanding officer of the unit performing such military duty at the place where the offense is committed and may be held in arrest during the continuance of the performance of such military duty. 2. The commanding officer of any unit of the organized militia performing military duty in or at any armory, arsenal, camp, range, base or other facility of the organized militia or other place where such unit is performing military duty may prohibit persons who hawk, peddle, vend or sell goods, wares, merchandise, food products or beverages upon the streets and highways from conducting sales or auctions, and may prohibit all gambling within the limits of such armory, arsenal, camp, range, base or other facility of the organized militia or other place where such unit is performing military duty or within such limits not exceeding one mile therefrom as he may prescribe. Such commanding officer may in his discretion abate as common nuisances all such sales, auctions and gambling. 3. Any person who trespasses upon any missile site under the control or jurisdiction of the New York army national guard, or who, in any way interrupts or molests the performance of duty by any person assigned to such site, may be apprehended and detained in custody at the site, by any member of the New York army national guard or any person performing duty at such site. Any person so apprehended and detained shall be delivered,

without delay, to a police officer, as defined in subdivision thirty-four of section 1.20 of the criminal procedure law.