

TITLE 15 GAMBLING AND LIQUOR CONTROL
CHAPTER 4 BINGO AND RAFFLES
PART 4 LICENSED PREMISES

15.4.4.1 ISSUING AGENCY: New Mexico Gaming Control Board.
[15.4.4.1 NMAC - Rp, 15.4.4.1 NMAC, 2/23/2021]

15.4.4.2 SCOPE: This rule applies to all persons subject to regulations promulgated under the New Mexico Bingo and Raffle Act by the New Mexico gaming control board.
[15.4.4.2 NMAC - Rp, 15.4.4.2 NMAC, 2/23/2021]

15.4.4.3 STATUTORY AUTHORITY: Authority for this rule derives from the New Mexico Bingo and Raffle Act Section 60-2F-3 NMSA 1978. Subsection H of 60-2F-6 NMSA 1978 authorizes the board to adopt rules to implement the New Mexico Bingo and Raffle Act and to ensure that games of chance conducted in New Mexico are conducted with fairness and that the participants and patrons are protected against illegal practices on any premises.
[15.4.4.3 NMAC - Rp, 15.4.4.3 NMAC, 2/23/2021]

15.4.4.4 DURATION: Permanent.
[15.4.4.4 NMAC - Rp, 15.4.4.4 NMAC, 2/23/2021]

15.4.4.5 EFFECTIVE DATE: February 23, 2021, unless a later date is cited at the end of a section.
[15.4.4.5 NMAC - Rp, 15.4.4.5 NMAC, 2/23/2021]

15.4.4.6 OBJECTIVE: This rule establishes standards and requirements for premises on which licensed games of bingo, raffle and pull-tabs are operated by a licensee pursuant to the New Mexico Bingo and Raffle Act.
[15.4.4.6 NMAC - Rp, 15.4.4.6 NMAC, 2/23/2021]

15.4.4.7 DEFINITIONS: See 15.4.1.7 NMAC for applicable definitions.
[15.4.4.7 NMAC - Rp, 15.4.4.7 NMAC, 2/23/2021]

15.4.4.8 SUITABILITY OF PREMISES: The licensed premises shall meet the requirements of the act and regulations promulgated under the act.

A. The proposed licensed premises shall comply with all zoning ordinance of the city or county and fire safety, health or building codes.

B. A licensee shall maintain a secure storage area on the licensed premises for funds, bingo cards, pull-tabs and raffle tickets.

[15.4.4.8 NMAC - Rp, 15.4.4.8 NMAC, 2/23/2021]

15.4.4.9 AREA OF LICENSED PREMISES; RESTRICTIONS:

A. The licensed premises shall be clearly marked and no games of chance shall be permitted outside of the licensed premises.

B. No bingo operator's license shall encompass more than one licensed premise.

C. Licensees allowing use of their licensed premise by a non-licensed organization, as defined in Subsection Y of 60-2F-4 1978 and Paragraph (2) of Subsection A of 60-2F-26 NMSA 1978, in the conduct of bingo or raffle shall submit forms prescribed by the board.

D. Any applicant or licensee who leases all or part of the licensed premises or proposed licensed premises shall furnish the following information to the board ~~within 30 days of~~ **prior to** the effective date of the lease:

(1) the lessor's name and address;

(2) copy of the lease;

(3) statement describing any business relationships between the licensee or applicant and the lessor other than the lease; and

(4) any other information requested by the board.

E. Failure ~~of applicant or licensee~~ to provide the information requested constitutes sufficient grounds for the board to deny the application.

F. The **applicant or** licensee shall furnish to the board complete information pertaining to any change in any premises lease within 30 days after the effective date of such change.

G. No **applicant or** licensee shall conduct any activity authorized under the act, if the lease, rent, contract, or any other arrangements under which the right to use the premises requires rental or other payment to another, based on a percentage of receipts or profits derived from such licensed activities.

H. No rental or lease agreement for real or personal property shall be in excess of fair market value, which shall be the responsibility of the licensee to demonstrate to the board or its agents upon request.

I. All rental and lease agreements shall be subject to prior approval by the board or its agents to ensure compliance with all applicable laws, rules and regulations. **Rental agreements, lease agreements and contracts shall be submitted for board review and approval 30 days prior to the effective date.**

J. A nonprofit bingo operator and distributor licensee jointly shall submit any contract or lease agreement between the nonprofit bingo operator licensee or distributor licensee and any other licensee to the board for review not less than 30 calendar days before the contract or lease agreement goes into effect. The term "contract or lease agreement" shall include any amendment of an existing contract or lease agreement.

K. Any contract or lease agreement submitted for review shall include copies of any ancillary agreement, shall state with specificity the beginning and expiration date of the contract, and shall include meeting minutes or other evidence that the contract has been approved by the nonprofit bingo operator's governing body.

L. The contract or lease agreement shall be deemed approved unless the board disapproves the contract or lease agreement in writing prior to the effective date of the contract or lease agreement. The board shall disapprove a contract or lease agreement submitted for review if the contract or lease agreement was not submitted in compliance with this rule or if it directly or indirectly permits another licensee to manage or otherwise control the nonprofit bingo operator licensee.

M. The factors that may be considered by the board to be indicia of direct or indirect management or control include, but are not limited to:

(1) whether the amount and terms of any loans made to the nonprofit gaming bingo operator licensee, including the principal amount, interest rate, monthly payment and re-payment period, are disproportionate to the assets of the nonprofit bingo operator licensee or create an excessive debt to income ratio;

(2) whether the terms and conditions of any gift, donation or other benefit conferred to the non-profit gaming bingo operator licensee permit another licensee to exercise any direct or indirect management or control over the day-to-day operations of the nonprofit gaming bingo operator licensee;

(3) whether the contract or agreement contains a provision that calls for automatic renewal of the contract or agreement without notice;

(4) whether the term of the contract or agreement is greater than five years;

(5) whether any other term or condition of the lease agreement or contract permits any licensee to effectively exercise direct or indirect management or control over any of the day-to-day operations of the nonprofit bingo operator licensee.

[15.4.4.9 NMAC - Rp, 15.4.4.9 NMAC, 2/23/2021]

15.4.4.10 CHANGE OF LOCATION:

A. A licensee's licensed premise may be amended from the location shown on the physical license and listed in the original application with written notification to the board. The notification shall include the information required by the licensing division and payment of a nonrefundable fee of \$100.

B. Failure of the licensee to obtain the board's prior approval of the relocation of the license as issued under the act may result in administrative action including but not limited to suspension, revocation, and fines to the licensee and bingo manager.

[15.4.4.10 NMAC - Rp, 15.4.4.10 NMAC, 2/23/2021]

HISTORY OF 15.4.4 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the state records center and archives by department of alcohol and beverage control under:

ABC Regulation No. 2B-9, Crimes Requiring Police Report Relating to Section 60-2B-9 NMSA 1978, filed 12/22/1982.

Regulation No. 2B-9, Expenses and Reporting Relating to Section 60-2B-9 NMSA 1978, filed 3/29/1984.

ABC Regulation No. 2B-9(A) Bingo Games Records Relating to Section 60-2B-9(A) NMSA 1978, filed 12/22/1982.

Regulation No. 2B-9(A), Records - Bingo Games, filed 3/21/1984.

ABC Regulation No. 2B-4A(2), Inspection of Suppliers Records, Relating to Section 60-2B-4A(2) NMSA 1978 filed 2/11/1983.

History of Repealed Material:

15.4.4 NMAC, Bingo Reporting, filed 9/16/2005 - Repealed, effective 4/15/2013.

15.4.4 NMAC, Bingo Reporting, filed 3/27/2013 - Repealed, effective 2/23/2021.

Other:

15.4.4 NMAC, Bingo Reporting, filed 9/16/2005, Replaced by 15.4.4 NMAC, Bingo Reporting, effective 4/15/2013.

15.4.4 NMAC, Bingo Reporting, filed 3/27/2013, Replaced by 15.4.4 NMAC, Bingo Reporting, effective 2/23/2021.