

**TITLE 15        GAMBLING AND LIQUOR CONTROL**  
**CHAPTER 4     BINGO AND RAFFLES**  
**PART 11        VARIANCE PROCEDURES**

**15.4.11.1        ISSUING AGENCY:** New Mexico Gaming Control Board.  
[15.4.11.1 NMAC - Rp, 15.4.11.1 NMAC, 2/23/2021]

**15.4.11.2        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.  
[15.4.11.2 NMAC - Rp, 15.4.11.2 NMAC, 2/23/2021]

**15.4.11.3        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.  
[15.4.11.3 NMAC - Rp, 15.4.11.3 NMAC, 2/23/2021]

**15.4.11.4        DURATION:** Permanent.  
[15.4.11.4 NMAC - Rp, 15.4.11.4 NMAC, 2/23/2021]

**15.4.11.5        EFFECTIVE DATE:** February 23, 2021, unless a later date is cited at the end of a section.  
[15.4.11.5 NMAC - Rp, 15.4.11.5 NMAC, 2/23/2021]

**15.4.11.6        OBJECTIVE:** This rule establishes procedures for requesting a temporary exemption to any rule within 15.4 NMAC that is not directed by the act.  
[15.4.11.6 NMAC - Rp, 15.4.11.6 NMAC, 2/23/2021]

**15.4.11.7        DEFINITIONS:** See 15.4.1.7 NMAC for applicable definitions.  
[15.4.11.7 NMAC - Rp, 15.4.11.7 NMAC, 2/23/2021]

**15.4.11.8        GENERAL REQUIREMENTS:** Licensee may seek a variance of limited provisions of the New Mexico Bingo and Raffle Rules 15.4 NMAC.  
[15.4.11.8 NMAC - Rp, 15.4.11.8 NMAC, 2/23/2021]

**15.4.11.9        VARIANCE PROCEDURES:**

**A.**     ~~The bingo manager~~ Any licensee may submit a variance request for any provision of the board rules. Licensee shall submit the request in writing to the board's legal division on a form prescribed by the board. ~~that~~ The variance request form shall include the licensee's name, license number, address, contact information, and the specific part of 15.4 NMAC for which the variance is being sought and the specific basis for the request. Including but not limited to an explanation of any business justification for the request and a showing of how the variance request is in the public interest.

**B.**     The board shall not grant a variance to any provision of the act.

**C.**     The board or its agent shall review the request and respond to the licensee in writing within 3060 days of the request.

**D.**     Factors the board may consider when granting or denying a variance request include but are not limited to:

- (1)     impact on game integrity;
- (2)     annual gross receipts;
- (3)     proximity of licensed premise:
  - (a)     to the financial institution holding the operating account;
  - (b)     to licensed distributor; and
  - (c)     to another licensee's licensed premise;
- (4)     number of occasions per annum;
- (5)     staff, volunteer or paid; and
- (6)     regulatory compliance history.

E. A granted variance may be for a specific period of time and shall not exceed the expiration date of the license. In the absence of a specified period, the variance shall expire on the license expiration date.

F. ~~The bingo manager~~ Upon expiration of the variance, the licensee may submit a request to renew a variance with license renewal application using the form prescribed by the board and to the board's legal division. staff shall review, grant or deny and respond to said request within 30 days of receipt of request and independently of the approval of the license renewal. Renewal of license shall not automatically result in renewal of variance. A renewal request shall be considered on the same basis as a new request, without any presumption that the request should be renewed.

G. A copy of the approved variance request shall be posted adjacent to the license at the licensed premise.

[15.4.11.9 NMAC - Rp, 15.4.11.9 NMAC, 2/23/2021]

**15.4.11.10 APPEAL:** ~~The bingo manager~~ Licensee may submit an appeal of a denial of a variance request to the board in writing within 30 days of notification of denial. The appeal shall comply with Subsection A of 15.4.14.9 NMAC.

[15.4.11.10 NMAC - Rp, 15.4.11.10 NMAC, 2/23/2021]

#### **HISTORY OF 15.4.11 NMAC: [RESERVED]**

##### **History of Repealed Material:**

15.4.11 NMAC, Bingo and Raffles - Variance Procedures, filed 3/27/2013 - Repealed 2/23/2021,

##### **Other History:**

15.4.11 NMAC, Bingo and Raffles - Variance Procedures, filed 3/27/2013 replaced by 15.4.11 NMAC, Bingo and Raffles - Variance Procedures, effective 2/23/2021.