

**OREGON STATE LOTTERY
REPORT ON RULEMAKING**

DIVISION 40 – Retailer Contract - Disclosure Waiver

September 16, 2016

Proposed Rule Action:

Permanent Rulemaking to Amend:

OAR 177-040-0001 General Application Requirements

Recommended Motion:

“I move that OAR 177-040-0001 be amended as proposed today, to be effective October 4, 2016.”

Background:

On August 12, 2016 the Director filed notice of permanent rulemaking to amend OAR 177-040-0001 (the administrative rule governing general application requirements) to authorize the Lottery to conduct an alternative disclosure process (that has been approved by the Oregon Lottery Commission) under specific circumstances for certain public companies or multi-state chains which apply for a traditional lottery retailer contract.

Commission approval is needed to amend this rule as permanent. The proposed amendments are in keeping with the Lottery’s constitutional and statutory mandates.

Public Comment:

The Lottery conducted a public hearing for the purpose of taking comments, and the report of that hearing has been provided to the Commission. The Lottery received no public comments.

Recommendation:

The Director recommends the permanent amendment of the above rule as proposed.

Dated this 16th day of September, 2016.

/s/ Mark W. Hohlt
Mark W. Hohlt, Rules & Policies Manager
Oregon State Lottery

**OREGON STATE LOTTERY
REPORT ON RULEMAKING HEARING**

DIVISION 40 – Retailer Contract - Disclosure Waiver

September 16, 2016

Hearing Date: September 16, 2016
9:30 a.m.

Administrative Rules:

Permanent Rulemaking to Amend:

OAR 177-040-0001 General Application Requirements

Hearing Location: Oregon State Lottery Headquarters
Salem, Oregon 97301

Summary of Hearing:

I convened the rulemaking hearing on the administrative rule referenced above, proposed for amendment by the Oregon Lottery Commission, on September 16, 2016 at 9:30 a.m. The hearing was tape recorded, and the tape is available for review.

Attending the hearing from the Oregon State Lottery was Mark W. Hohlt, Rules and Policies Manager.

No one else appeared at the hearing. The Lottery did not receive any written or oral comments on the proposed rule amendments.

I adjourned the hearing at 10:00 a.m., and the public comment period closed at that same time.

Dated this 16th day of September, 2016.

/s/ Mark W. Hohlt
Mark W. Hohlt, Hearings Officer
Oregon State Lottery

OREGON STATE LOTTERY

DIVISION 40

OREGON STATE LOTTERY DISCLOSURE WAIVER

2016 Rulemaking Project

DRAFT DATE: July 1, 2016

177-040-0001 General Application Requirements

(1) **General:** Any person may request an application from the Lottery.

(2) **Disclosure Required:** The Director may require any degree or type of disclosure necessary of the applicant or any other person in order to assure the security and integrity of the Lottery. An applicant must disclose to the Lottery all information required by the Director.

(3) **Application Required:** An applicant must file a complete application. The applicant must provide a complete personal disclosure, including documents and other information requested by the Lottery relating to the applicant's personal, financial, and criminal background and an applicant's associations with other persons. The application shall also include, but not be limited to:

(a) **Authorization:** An authorization, signed by the applicant, to investigate the applicant.

(b) **Consent:** Written consent to allow the examination of all accounts and records to be considered by the Director to be material to the application.

(c) **Disclosure:** Disclosure of the source of funds, financing, and business income used for the purchase and operation of the applicant's business.

(d) **Premises Ownership:** If the premises are not wholly owned by the applicant, the applicant shall furnish to the Lottery:

(A) A statement of the name and address of the owner or owners of such premises;

(B) Any document requested by the Lottery showing the applicant is entitled to possession of the premises;

(C) Complete information pertaining to the interest held by any person other than the applicant, including interest held under any mortgage, deed of trust, bond or debenture, pledge of corporate stock, voting trust agreement, or other device; and

(D) Such other information as the Lottery may require.

(4) **Alternative Disclosure Process: ~~Waiver of Personal Disclosure:~~** Notwithstanding section (3) of this rule:

(a) **Large Public Companies or Multi-State Retail Chains: If the applicant for a traditional lottery game retailer contract is a public company or a multi-state chain retailer that meets the following additional criteria of:**

~~If the applicant for a traditional lottery game retailer contract is a public company or a multi-state retail chain, Lottery will waive the personal disclosure requirements for the manager of each retailer location unless the Director determines such disclosure is necessary for the security and integrity of the Lottery.~~

(A) 30 or more individual locations; and

(B) Gross annual revenues of \$10 million or more; and

(C) 300 or more employees;

then the Lottery may utilize an alternative disclosure process as approved by the Lottery Commission as authorized under ORS 461.300(2)(b). This alternative disclosure process will focus its disclosure requirements on the public company or the multi-state chain itself. In such cases, the Lottery will still require disclosure of the name, current address, place of birth, date of birth, and social security number of those persons specified in ORS 461.300(2)(b)(A) through (F). Using the supplied information, Lottery will conduct a background search for publicly available information. However, the Director may determine at any time that additional disclosure is necessary for the security and integrity of the Lottery.

(b) Commission Approval: The Director shall present to the Commission for its approval applicants under the alternative disclosure process that the Director recommends for approval for a traditional lottery retailer contract. Upon the Commission's approval of an applicant, the Director may enter into a traditional lottery retailer contract with the applicant.

(5) Waiver of Personal Disclosure for Certain Managers: If the applicant for a traditional lottery game retailer contract is a public company or a multi-state retail chain, Lottery will waive the personal disclosure requirements for the manager of each retailer location unless the Director determines such disclosure is necessary for the security and integrity of the Lottery.

(65) Compliance Required: An applicant's failure to comply with any application or disclosure requirement may be grounds for denial or rejection of the application.

(76) Material Change: An applicant must immediately report to the Lottery, in writing, any material changes to the application during the application process. A “material change” means any change that may affect the Lottery’s evaluation of the application based on the requirements contained in Division 40 of these rules.

(87) Waiver: In submitting an application, the applicant expressly waives any claim against the State of Oregon, its agents, officers, employees, and representatives, and the Oregon State Lottery, its Director, agents, officers, employees, and representatives for damages that may result. Each applicant also accepts any risk of adverse public notice, embarrassment, criticism, damages, or claims which may result from any disclosure or publication by a third party of any public information on file with the Lottery.

(98) Resubmission: When an applicant has submitted a complete personal disclosure to the Lottery within the preceding twelve months, the applicant need not necessarily submit a new personal disclosure, but if the applicant does not submit a new personal disclosure, the applicant must submit, on forms approved by the Director, a sworn statement regarding any changes which may have occurred regarding the accuracy of the information provided in the previous personal disclosure. The Director may require the applicant to submit a complete personal disclosure if the Director determines substantial changes have occurred.