

# WEST VIRGINIA CODE: §47-20-23

## **§47-20-23. Administration; Rules and Regulations.**

(a) The Tax Commissioner shall administer the provisions of this article in accordance with the provisions of this article and chapter twenty- nine-a of this code.

(b) The commissioner shall deny an application for a license if he finds that the issuance thereof would be in violation of the provisions of this article.

(c) The commissioner may revoke, suspend or refuse to renew a license if the licensee or any member of a licensee organization has been convicted pursuant to section eighteen or nineteen of this article and the commissioner finds that it would be in the public interest to do so; or if the licensee has violated any of the provisions of this article: Provided, That before revoking or suspending a license issued under the authority of this article, the commissioner shall give at least ten days, three days for a limited occasion or state fair license, notice to the licensee. Notice shall be in writing, shall state the reason for revocation or suspension and shall inform the licensee of its right to petition the Office of Tax Appeals for a hearing at which the licensee may show cause why the license should not be revoked or suspended. Notice shall be sent by certified mail to the address of the licensee or served by certified mail or by personal or substituted service on the person who applied for the license on behalf of the licensee. The licensee may, at the time designated for the hearing, produce evidence in its behalf and be represented by counsel. A decision of the Office of Tax Appeals upholding, in whole or in part, the revoking or suspending of a license is subject to judicial review as provided in section nineteen, article ten-a, chapter eleven of this code.

(d) The commissioner may suspend, revoke or refuse to renew any license issued hereunder for a material failure to maintain the records or file the reports required by this article if the commissioner finds that said failure will substantially impair the commissioner's ability to administer the provisions of this article with regard to said licensee.

(e) The commissioner shall promulgate reasonable rules and regulations necessary to the administration of this article.

(f) The provisions of article five, chapter twenty-nine-a of this code apply to the denial, revocation, suspension of or refusal to renew a license hereunder.

(g) The burden of proof in any administrative or court proceeding is on the applicant to show cause why a bingo license should be issued or renewed and on the licensee to show cause why its license should not be revoked or suspended.

(h) Notwithstanding any other provision of this article, the commissioner may issue an emergency order suspending a bingo license in the following manner:

- (1) An emergency order may be issued only when the commissioner believes that:
- (a) There has been a criminal violation of this article;
  - (b) Such action is necessary to prevent a criminal violation of this article; or
  - (c) Such action is necessary for the immediate preservation of the public peace, health, safety, morals, good order or general welfare.
- (2) The emergency order shall set forth the grounds upon which it is issued, including a statement of facts constituting the alleged emergency necessitating such action. This order shall be served by personal or substituted service on the licensee or the person who applied for the license on behalf of the licensee.
- (3) The emergency order is effective immediately upon issuance and service upon the licensee.
- (4) Within five days after issuance of an emergency order, the licensee may petition the Office of Tax Appeals to set a time and place for a hearing wherein the licensee may appear and show cause why its license should not be revoked.