



**PAST DUE AND DELINQUENT
RETAILER ACCOUNTS
POLICY AND PROCEDURES**

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**NOTHING CONTAINED IN THESE GUIDELINES IS INTENDED TO
CREATE A CONTRACT OF EMPLOYMENT, EXPRESS OR IMPLIED,
OR TO ALTER THE AT-WILL NATURE OF EMPLOYMENT.**

PAST DUE AND DELINQUENT RETAILER ACCOUNTS POLICY AND PROCEDURES

Purpose

The purpose of this policy is to ensure that the New Mexico Lottery Authority (NMLA) takes all appropriate actions to minimize retailer accounts becoming past due and to establish collection procedures when accounts become delinquent or are written off to the Allowance for Bad Debts.

General Use and Applicability

The provisions of this policy are applicable to all NMLA retailers, who have an ACH return item and the collection efforts by the employees of the NMLA.

Definitions

“Automated Clearing House (ACH) Return Item” or “ACH return item” is a retailer sweep amount that is returned by the NMLA’s bank as a result of an ACH sweep not being collected from the retailer’s authorized bank account. This return item may be the result of insufficient funds (NSF), account closed, payment stopped, account frozen, or for any other reason causing the item to be returned. ACH transactions in this policy are synonymous with Electronic Funds Transfer (EFT) transactions.

“Delinquent Retailer” is a retailer that:

- has an ACH return item returned to the NMLA that is the result of the retailer’s actions and where the amount owed to the NMLA has not been made current in the designated time period;
- has a second ACH return item returned within a one-month period from the first ACH return item;
- has a third or subsequent ACH return item returned within a three-month period from the first ACH return item; and/or
- is a retailer that cannot be contacted or fails to return the NMLA’s phone calls.

“New Mexico Lottery Act”, “Lottery Act”, or “the Act” means the New Mexico Lottery Act, N.M.S.A., 1978, Sections 6-24-1 through 6-24-34, as the same may be amended from time to time.

“New Mexico Lottery Authority”, “New Mexico Lottery”, “NMLA”, “Lottery”, or “Authority” means the New Mexico Lottery Authority, a public body, politic and corporate, separate and apart from the State of New Mexico, constituting a governmental instrumentality, established and operated pursuant to the New Mexico Lottery Act.

“Past Due and Delinquent Retailer Account Committee” or “Committee” is comprised of the CEO, the Director of Finance, the Director of Sales, and the Executive Vice President of Security, or their designees.

Policy

The NMLA Finance Division will be responsible for monitoring retailer accounts receivable, will take all necessary measures to minimize retailer account balances from becoming past due, and will take actions necessary to collect monies due from delinquent retailer accounts. The Committee, with the concurrence of at least three of the four Committee members, or their designees, may disable or close a retailer and/or recommend to the CEO that the retailer’s certificate of authority to sell NMLA tickets be terminated/revoked as per NMSA 6-24-16. Other NMLA divisions will assist, as needed, with these procedures.

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Procedures

Generally, each Monday morning (occasionally on Friday morning) following the ACH sweep on the previous Thursday, the Finance Division receives an ACH return item report from the NMLA's bank.

1. Following the receipt of this report, the Finance Division will contact any retailer on the report and request the account be made current within two (2) business days of the retailer notification. The retailer may bring the account current by:
 - a) consenting to a re-sweep of the amount from the retailer's authorized bank account,
 - b) wiring the funds to the NMLA's designated bank account, or
 - c) delivering cash, a cashier's check, or a money order to the NMLA headquarters or overnighting cash, a cashier's check, or a money order to the NMLA.

Note: The form of payment acceptable for the payment of an ACH return item will be solely determined by the NMLA. The Director of Finance has the discretion to accept a partial payment toward the amount owed, unless the amount owed is in excess of \$5,000.

2. A retailer with a ACH return item may be subject to the following actions:
 - a) There will be no NMLA ACH return item fee charged if the account is made current within the designated time frame of 2 business days and there has not been an ACH return item during the past one-month period. If the account is not made current within the two business days, the retailer may be assessed a \$50 (fifty dollar) ACH return item fee, which may be added to the amount that is past due. In addition, the retailer's terminal may be disabled and/or instant ticket shipments to the retailer may be suspended. The retailer will be notified about the disabling of the terminal by either the Finance Division or the Sales Division.
 - b) A \$75 (seventy-five dollar) ACH return item fee may be added to the amount that is past due if this is the second ACH return item during the past one-month period. In addition, the retailer's terminal may be disabled on the day the ACH return item report is received and/or instant ticket shipments to the retailer may be suspended. The retailer will be notified about the disabling of the terminal by either the Finance Division or the Sales Division.
 - c) A \$100 (one-hundred dollar) ACH return item fee may be added to the amount that is past due if this is the third or subsequent ACH return item during the past three-month period. In addition, the retailer's terminal may be disabled on the day the ACH return item report is received and instant ticket shipments to the retailer may be suspended. The retailer will be notified about the disabling of the terminal by either the Finance Division or the Sales Division. A security deposit may be required prior to reactivating the retailer's terminal, which may be determined by an updated credit report combined with ticket sales history.

NOTE: To determine the above ACH return item fee and the status of the retailer, the previous three-month period will be reviewed to ascertain if there have been any previous ACH return items during the time period. Any NMLA retailer with two or more ACH return items during the previous three-month period will be ineligible for any financial incentive

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programs that may apply during this three-month period. (This may not apply to any clerk-oriented programs). Any retailer may regain "good financial standing" with the completion of a three-month period with no ACH return items. "Good financial standing" allows a retailer to participate in any monetary incentive programs that may be in effect.

3. The Finance Division will keep the Committee informed of retailer account sweeps that have been returned by distributing an ACH return item report (NSF Updates Report) each week with the status of the collection process.
4. If the retailer makes full payment within the time period allotted (2 business days), the collection process will be suspended. If the retailer's terminal has been disabled, once the Finance Division determines the funds have been collected, the process to reactivate the retailer's terminal may start and/or instant ticket shipments to the retailer may resume. The retailer will be advised of the terminal reactivation and that any future ACH return item could place their certificate and contract to sell lottery in jeopardy.
5. If the retailer cannot be contacted or fails to pay the full amount owed to the lottery within the time period allotted, the NMLA Finance Division may:
 - a) convene the Committee and review a history of the retailer account ACH return items and the status of the delinquent retailer. At least three of the four Committee members, or their designees, must approve the action to be taken against the retailer, whether it be disabling the retailer or the revocation of the certificate to sell lottery tickets and picking up any instant tickets, supplies, and equipment, and/or
 - b) mail a certified letter, return receipt requested, to one or more of the person's identified as having a financial interest with the delinquent account. The letter will request that the retailer bring its account current within five (5) business days of the date of the letter by presenting cash, a cashier's check, money order, or wiring funds to the NMLA's designated bank account. The letter will inform the retailer that if the account is not made current within the designated time period, the NMLA may suspend the retailer's certificate and pick-up any instant tickets and any or all equipment and supplies at the retailer.
6. If the retailer pays the balance due in full within this 5-day period and/or honors the next weekly sweep, no further action will be taken. Once the Finance Division determines the funds have been collected and any amounts owed to the NMLA are in current status, the process to reactivate the retailer's terminal may start and instant ticket shipments may resume.
7. If the retailer has not paid the balance due in full, including any assessed fees, or has not communicated with the lottery to arrange payment of the delinquent account within the five (5) business days given per the first certified letter, the NMLA Finance Division may mail a second certified letter, return receipt requested, demanding payment within five business days of the date of the letter. The letter will advise the retailer that failure to provide payment within the five business days may result in initiating the process of revoking the retailer's certificate and collecting all the NMLA's and vendor's property.

Note: In lieu of mailing a second certified letter, the Director of Finance may request that the Executive Vice President of Security send a Security Agent to deliver the letter to the retailer.

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8. If full payment has not been received by the NMLA within the additional 5-day time period, the Director of Finance may convene the Committee and present the delinquent retailer's file for review with a recommendation to revoke the retailer's certificate to sell lottery tickets. At least three of the four Committee members, or their designees, must approve the revocation of the certificate.
9. Upon the Committee's approval for the revocations of the retailer's certificate to sell lottery tickets, the Director of Sales will direct the Customer Service Supervisor, or his/her designee, to initiate the retailer closeout process to remove all instant tickets and all vendor and NMLA equipment, point-of-sale items and any other NMLA property.
10. Following the revocation of the retailer certificate, if the retailer has not paid its account in full and if the NMLA holds a security deposit, the Finance Division may apply the security deposit against the amount owed.

During this process, the Finance Division will continually monitor the retailer's account and advise the Committee of the balance owed by the retailer. If the dollar amount exceeds \$5,000, the CEO has the authority to forgo any established time frames and initiate any or all processes, including but not limited to, the terminal disabling, certificate revocation, collection and other processes, he/she deems appropriate.

11. Efforts by the Finance Division to collect the debt may continue during this time period, including forwarding the file and history to the Sales Division and the Security Division for assistance in the collection efforts.
12. In the event that payment is not collected within the 90-day period following the date of default and the retailer has not executed a written agreement and/or promissory note satisfactory to the NMLA to satisfy and pay off the amount owed, the Director of Finance may present a recommendation to the Executive Vice President of Security and the Director of Sales to write-off the amount owed as a bad debt against the Allowance for Bad Debts on the general ledger and to forward the names of those individuals listed on the NMLA retailer application as having a financial interest in the business, or on any change in ownership documentation, to a collection agency for the purpose of collecting the retailer debt owed to the NMLA. The CEO, or his/her designee, has final approval.

Note: All individuals listed as having a financial interest in the business on the NMLA Retailer Background Information per the Retailer Application or the Change in Ownership documentation will be considered financially liable for any outstanding balance owed to the NMLA at the time of a default in payment.

13. Any monies collected and remitted by the collection agency will be added back to the Allowance for Bad Debts on the general ledger.
14. Any and all legal actions allowed will be pursued in collecting amounts owed to the NMLA.
15. If after a retailer certificate has been revoked, if any or all of the same owners of the retailer re-apply to sell lottery tickets, the Finance Division will collect any previous debts owed to the NMLA prior to the Security Division initiating any review of the retailer application and will require that the retailer post at least a \$2,500 security deposit.