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Illinois Department of
Financial and Professional Regulation

Division of Professional Regulation

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The Department of Financial and Professional Regulation Announces Planned Corrective Lottery Process

The Department of Financial and Professional Regulation (“Department”) recently conducted the Qualifying Applicant Lottery, the Social Equity Justice Involved Lottery, and the Tied Applicant Lottery to award Conditional Adult Using Dispensing Organization Licenses (“Conditional Licenses”) pursuant to the amended Cannabis Regulation and Tax Act (“Act”), 410 ILCS 705/1 *et seq.* Following the three lotteries, the Department provided a period of time for each lottery winner to abandon any licenses that exceeded the statutory ownership limitations. That abandonment period has now concluded for each of the three lotteries.

On September 3, 2021, the Department published the final lists of applicants that it has determined are eligible to receive a Conditional License as a result of the three lotteries, subject to verification of each applicant’s compliance with applicable statutory and administrative requirements. For purposes of judicial review under 410 ILCS 705/15-175(a), the Department considers the September 3, 2021 publication of those lists to be the final administrative decision for all applications for Conditional Licenses under Sections 15-25 through 15-35.10 of the Act.

The Department has determined that lotteries for certain BLS regions in connection with the Qualifying Applicant Lottery conducted on July 29, 2021 did not include the correct number of qualified entries based on the application fees applicants paid. Applicants were permitted to either submit a single application but pay multiple application fees to obtain multiple application entries in the same lottery or to submit different applications and obtain multiple application entries. When the Department posted the list of participants for the Qualifying Applicant Lottery, some participants erroneously received an extra entry, while some others did not receive an entry they paid for and identified on their application. The Department has notified those applicants who had an entry that was erroneously excluded from the Qualifying Applicant Lottery because of this issue. No extra entry that was erroneously included in the Qualifying Applicant Lottery received a winning lottery slot.

In addition, several applicants have alleged that their applications should have been eligible for one or more of the three lotteries and were incorrectly excluded. The Department expects these issues to be resolved by the courts under the Illinois Administrative Review Law, 735 ILCS 5/3-101 *et seq.*

The Department is committed to ensuring a fair process by which all applicants that were properly qualified to participate in a lottery but were erroneously excluded from that lottery receive a fair opportunity to obtain a Conditional License. Accordingly, the Department intends to conduct supplemental corrective lotteries that will address application entries that were erroneously excluded from a lottery. Subject to court approval, the Department intends to conduct that process as follows:

- Separate corrective lotteries will be conducted for the Qualifying Applicant Lottery, the Social Equity Justice Involved Lottery, and the Tied Applicant Lottery for each BLS region in which an applicant was improperly excluded from that lottery under the eligibility criteria established by law.
- Application entries that were erroneously excluded from the Qualifying Applicant Lottery, the Social Equity Justice Involved Lottery, or the Tied Applicant Lottery may be able to obtain a Conditional License as the result of a corrective lottery. Eligibility will be determined by the Department or a court of competent jurisdiction.
- Applicants with entries that were properly included in the original lotteries will not have another entry in a corrective lottery giving them an additional opportunity to win a Conditional License.
- The Illinois Lottery will conduct the corrective lotteries with the computer-based drawing system that was used for each of the previous lotteries. An applicant will be eligible for an opportunity to receive a Conditional License only if its entry is drawn in a “winning” slot based on the number of available licenses in that BLS region. For example, in a BLS region with 3 available licenses, an eligible application entry that had been erroneously excluded must draw number 1, 2, or 3 to be eligible for an opportunity to obtain a Conditional License through the corrective lottery.

Subject to court approval, the Department intends to use its authority under section 15-35.20(b) of the Act (allowing up to 500 Adult Use Dispensing Organization Licenses) to make available Conditional Licenses to all applicants with eligible applications that are selected in a winning slot in a corrective lottery. Any such licenses will be in addition to any licenses awarded based on the original lotteries. Thus, unless a court rules otherwise, the Department does not intend to alter or change the results of the original lotteries when it conducts the corrective lotteries, but instead intends to award additional licenses where necessary to redress errors that resulted in the improper exclusion of applicant entries in the three original lotteries.

The Department also intends to issue at least 50 additional Conditional Licenses in 2022 under a new application process consistent with Section 15-35.20 of the Act.