

154A.420 Proceeds from ticket sales to constitute trust fund -- Administrative regulation governing retailers' deposit of lottery proceeds -- Liability of lottery retailers -- Priority of debt to corporation -- Lien to secure retailer's obligation to remit proceeds.

- (1) All proceeds from the sale of lottery tickets received by a person in the capacity of a lottery retailer shall constitute a trust fund until paid to the corporation either directly, or through the corporation's authorized collection representative. Proceeds shall include unsold instant tickets received by a lottery retailer and cash proceeds of sale of any lottery products, net of allowable sales commissions and credit for lottery prizes paid to winners by lottery retailers. Sales proceeds and unused instant tickets shall be delivered to the corporation or its authorized collection representative upon demand. The corporation shall, by administrative regulation, require retailers to place all lottery proceeds due the corporation in accounts in institutions insured by the Federal Deposit Insurance Corporation or Federal Savings and Loan Insurance Corporation not later than the close of the next banking day after the date of their collection by the retailer until the date they are paid over to the corporation. The corporation may require a retailer to establish a single separate electronic funds transfer account, where available, for the purpose of receiving moneys from ticket sales, making payments to the corporation, and receiving payments from the corporation. Lottery retailers shall be personally liable for all proceeds. This section shall apply to all lottery tickets generated by computer terminal, other electronic device, and any other tickets delivered to lottery retailers.
- (2) Whenever any person who receives proceeds from the sale of lottery tickets in the capacity of a lottery retailer becomes insolvent, or dies insolvent, the proceeds due the corporation from such person or his estate shall have preference over all debts or demands.
- (3)
 - (a) A lien is hereby given to the corporation on all funds and other personal property, on all real property, and on all rights to real or personal property owned or subsequently acquired by each retailer in the amount of, and to secure, the retailer's obligations to remit lottery proceeds to the corporation. The lien shall be in the amount of all sums due to the corporation at any time, together with all interest, penalties, fees, commissions, charges, and other expenses incurred by reason of nonpayment of the lottery proceeds to the corporation or in the process of collecting those proceeds, and shall have priority over any other obligation or liability for which the funds or real or personal property are liable. The lien shall be of equal rank with the tax liens of the state, or any city, county, or other taxing authority within the state. The lien shall arise upon the receipt of lottery proceeds by the retailer, whether or not the retailer is at that time obligated to remit all or any portion of those proceeds to the corporation, and shall be enforceable until the liability is paid or extinguished.
 - (b) The lien imposed by paragraph (a) of this subsection shall not be valid as against any purchaser, judgment lien creditor, or holder of a security interest or mechanic's lien until notice of the corporation's lien has been filed by the

corporation with the county clerk of any county or counties in which the retailer's business or residence is located, or in any county in which the retailer has an interest in property. The recording of the lien shall constitute notice of both the original obligation to the corporation and all subsequent obligations to the corporation of the same retailer. Upon request, the corporation shall disclose the specific amount of liability at any given date to any interested party legally entitled to the information.

- (c) Even though notice of a lien has been filed as provided by paragraph (b) of this subsection, and notwithstanding the provisions of KRS 382.520, the lien imposed by paragraph (a) of this subsection shall not be valid with respect to a security interest which comes into existence after the notice of lien has been filed by reason of disbursements made within forty-five (45) days after the date the lien was filed or the date the person making the disbursements had actual notice of the lien filing, whichever is earlier, if the security interest:
1. Is in property which at the time of filing is subject to the lien imposed by paragraph (a) of this subsection, and is covered by the terms of a written agreement entered into before the lien is filed; and
 2. Is protected under local law against a judgment lien arising as of the time of the lien filing, out of an unsecured obligation.
- (d) The corporation shall be afforded the same rights and remedies with respect to enforcement of any lien and collection of lottery proceeds as is afforded state, county, city, and other taxing authorities by KRS Chapter 134.

Effective: July 15, 1994

History: Amended 1994 Ky. Acts ch. 170, sec. 11, effective July 15, 1994. -- Created 1988 (1st Extra. Sess.) Ky. Acts ch. 1, sec. 13, effective December 15, 1988.