§ 23.08. Proceeds from advance ticket sales; refunds. 1. Any ticket distributor who offers or sells to the public in or from the state of New York, advance tickets of admission to events to be held in places of entertainment, or who contracts for the sale of such advance tickets of admission, and accepts in advance partial or full payment of the purchase price therefor, shall, no later than the next business day after receipt thereof, deposit all such advance payments in an escrow account in a bank, trust company, savings bank, or state or federal savings and loan association, located in this state. A separate escrow account shall be established for each place of entertainment. Monies deposited in escrow shall be released upon performance of each event for which such monies have been deposited to the extent that such monies represent payment for advance tickets sold for the performed event. The person who offers or sells advance tickets shall not be required to keep in separate depository accounts the funds of the separate ticket purchasers from whom payments have been received, provided his books of account shall clearly show the number of tickets sold at each price for each theatrical production, concert or sporting event for which a separate escrow account has been established, and the total amount of advance ticket revenues. Each advance ticket purchaser shall, until the performance of the event for which the advance ticket has been purchased, retain a property interest in that portion of the deposit which equals the amount he has paid for such advance ticket, and shall be entitled to a refund for such amount if the performance of the event for which such ticket has been purchased in advance has been cancelled or rescheduled, except as provided for by subdivision three of this section.

2. In lieu of the deposit of all such advance payments in an escrow account as provided in subdivision one of this section, any ticket distributor who offers or sells advance tickets may post with the secretary of state in a form, substance and amount satisfactory to the attorney general, a letter of credit drawn on a bank, trust company, savings bank, or state or federal savings and loan association, located in this state, or a bond or contract of indemnity, issued by a surety company licensed to execute such an instrument in this state, such letter of credit, bond or contract of indemnity to be in favor of the

state for the benefit of any person who has purchased an advance ticket if performance of the event for which such ticket has been purchased has been cancelled or rescheduled, except as provided for by subdivision three of this section. The amount of the escrow account required to be established under subdivision one of this section may be reduced by the amount of the letter of credit, bond or contract of indemnity provided for in this subdivision provided that the combined amount of money held in such escrow account and the value of such letter of credit, bond or contract of indemnity shall at all times at least be equal to the amount of money collected from advance ticket sales for all events to be held at each place of entertainment.

3. The refund provisions of subdivisions one and two of this section shall not apply where (i) there was no material change in the time of the performance of the event or in the location at which the event was held; (ii) the performance of such event was rescheduled due to an Act of God, war, riot or other catastrophe as to which negligence or willful misconduct on the part of the ticket distributor who offered or sold such advance tickets was not the proximate cause and where the advance ticket purchaser was given the right to use his or her ticket for such rescheduled performance or the right to exchange such ticket for a ticket comparable in price and location to another, similar event; or (iii) the back of the ticket conspicuously states that if the performance is cancelled or rescheduled, the ticket distributor shall not be required to refund the ticket price if the ticket purchaser is given the right, within twelve months of the originally scheduled date of the performance, to attend a rescheduled performance of the same event or to exchange such ticket for a ticket comparable in price and location to another, similar event.