



# Texas Lottery Commission

Commissioners:

J. Winston Krause, Chairman • Carmen Arrieta-Candelaria  
Peggy A. Heeg • Doug Lowe • Robert Rivera



Alfonso D. Royal III  
Director

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**CERTIFIED MAIL NO. 91 7199 9991 7031 1028 5571**  
**RETURN RECEIPT REQUESTED**

October 13, 2017

Richard Bunkley  
Chief Operating Officer  
Littlefield Corporation  
1919 East Riverside Drive  
Austin, Texas 78741

Re: Bingo Advisory Opinion Request No. 2017-0816-0004

Dear Mr. Bunkley,

This opinion responds to your request for a bingo advisory opinion received on August 16, 2017, in which you asked three questions. Below are your questions and our responses.

Question 1:

Is a licensed authorized organization allowed to accept a credit card as payment for bingo products (such as paper cards, electronic cards, and pull tabs) if the credit card transaction is funded by a credit card processing company within two business days?

Answer:

No. The Bingo Enabling Act (BEA) is silent regarding the acceptance of credit cards. However, the BEA does state that “all funds derived from the conduct of bingo, less the amount awarded as cash prizes” must be deposited “not later than the second business day after the day of the bingo occasion on which the funds were obtained.” TEX. OCC. CODE § 2001.451(b). This section specifically excepts funds derived from debit cards, which may be deposited within 72 hours after the debit card transaction. *Id.* § 2001.451(b-1). Given the explicit statutory instruction related to debit cards, the Texas Lottery Commission (TLC) issued rules applicable to debit card transactions. 16 TEX. ADMIN. CODE § 402.504.

Historically, licensed organizations have not accepted credit cards as payment for bingo products, and instead proceeded on a cash basis. The Texas Legislature added the above-referenced provision on debit cards in 2003, making clear that licensed organizations may accept debit cards under certain conditions. *See* Tex. H.B. 2519, 78th Leg., R.S. The Legislature further amended that section in 2009. *See* Tex. H.B. 1474, 81st Leg., R.S. Neither of those amendments added an

exception for credit cards. Similarly, the TLC has not issued any rules regarding credit card transactions, as it has for debit card transactions.

Although charitable bingo is an important fund-raising activity for a variety of Texas nonprofit organizations, the TLC is charged with the strict control and close supervision of bingo conducted in Texas. There are clear downsides to accepting credit cards, including the potential for credit card fraud, the temptation for players to spend more than they can afford, and the costs to players in fees and interest. Furthermore, credit card acceptance could make understanding the true financial condition of licensed organizations more difficult, both to those internal to the organization and to the TLC in its role as regulator.

These important considerations and potential risks merit deference to the historical practice in the bingo industry. Without clear legislative direction to allow the use of credit cards, licensed organizations are not allowed to accept credit cards as payment for bingo products.

Question 2:

Is a licensed authorized organization allowed to accept a credit card as payment for bingo products (such as paper cards, electronic cards, and pull tabs) if the credit card transaction is charged to a separate account which would act as a clearing account? The licensed authorized organization's manager on duty would write a check from the clearing account to the bingo account at the end of each occasion in an amount equal to the total credit card charges to be included in the occasion deposit.

Answer:

No. As outlined above, the legislative history of the BEA and the industry practice regarding the acceptance of credit cards indicate that a licensed organization is not allowed to accept credit cards as payment for bingo products. The structure of the transaction, including whether a clearing account or check-writing intermediary is used, does not change the underlying issues with accepting a credit card as payment for bingo products.

Question 3:

Is a licensed authorized organization allowed to award a bingo prize using a check drawn on a bingo account?

Answer:

Yes. The BEA states that funds may only be withdrawn from a licensed organization's bingo account for "the payment of necessary or reasonable bona fide expenses . . . as permitted under Section 2001.458." TEX. OCC. CODE § 2001.453. Section 2001.458 provides that prizes are a category of expense allowed under the BEA. § 2001.458(a)(5). Furthermore, withdrawals from the bingo account may be made via "preprinted, consecutively number checks . . . signed by an authorized representative of the licensed authorized organization and made payable to a person."



§ 2001.452. In addition, the “nature of the payment” should be “noted on the face of the check.”  
*Id.*

Therefore, any check issued by a licensed organization that awards a bingo prize must be payable directly to the prize winner. The check must be signed by an authorized representative of the licensed organization. Some details regarding the prize (e.g., the session and game won) must be noted on the face of the check. If these requirements are met, a licensed organization may award a bingo prize using a check.

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#### SUMMARY

A licensed organization may not accept credit cards for the payment of bingo products, regardless of how the transaction is structured. A licensed organization may award bingo prizes using checks from its bingo account if the checks are issued and annotated properly.

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This advisory opinion cannot be construed as a tax ruling or otherwise interpretive of the Internal Revenue Code. The information provided is completely limited to the context of the BEA and the Charitable Bingo Administrative Rules.

This advisory opinion is based on the laws, rules and regulations in effect at the time of its issuance. All of the information provided herein is subject to changes in law.

This opinion is purely advisory in nature and is limited to the particular questions at issue and to the facts presented in the request. Therefore, this opinion must not be relied upon as a previous determination regarding any conduct which is not substantially consistent with the opinions and facts stated in the request.

Sincerely,



Alfonso D Royal III, Director  
Charitable Bingo Operations Division

cc: J. Winston Krause, Chairman  
Carmen Arrieta-Candelaria, Commissioner  
Peggy A. Heeg, Commissioner  
Doug Lowe, Commissioner  
Robert Rivera, Commissioner  
Gary Grief, Executive Director  
Bob Biard, General Counsel