

BAO 2004-0707-0023	Date Issued: 09/07/2004	View Request <a href="#">RO 2004-0707-0023</a>
Summary:	Consistent with Texas Occupations Code Section 2001.551(b)(3), a senior citizen's organization may play bingo without obtaining a charitable bingo license when no more than a nominal value is charged to play and prizes are nominal; a bingo fund raiser would not be permissible under this section. As an alternative, if the Crockett Senior Center Board applies and is licensed as an authorized organization under Texas Occupations Code §2001.101, the Board could hold bingo occasions to raise funds for charitable purposes.	

**FIRST CLASS UNITED STATES MAIL**  
**and**  
**CERTIFIED MAIL NO. 7004 0750 0001 3237 5116**  
**RETURN RECEIPT REQUESTED**

BAO # 2004-0704-023

September 7, 2004

Ms. Nancy Hale  
P. O. Box 133  
Ozona, Texas 76126

Re: Request for Advisory Opinion Relating to Bingo Licensing

Dear Ms. Hale:

On July 7, 2004, the Texas Lottery Commission (Commission) received your request for an advisory opinion related to bingo licensing. Below is your question followed by the Commission's response.

The Crockett Senior Center Board would like to have a bingo party for sr. citizens with donated prizes. Is this okay? Could we charge for cards? Could we use cash for prizes? Could we have a bingo fund raiser at the Halloween carnival?

ANSWER:

It is permissible for the Crockett Senior Center Board (Board) to have a bingo party for senior citizens with donated prizes. Texas Occupations Code §2001.551(b)(3) provides the following:

(b) A person conducting, promoting, or administering bingo commits an offense if the person conducts, promotes, or administers bingo other than:

...

(3) on behalf of an organization of individuals 60 years of age or over, a senior citizens' association, a senior citizens' community center program operated or funded by a governmental entity, the patients in a hospital or nursing home, residents of a retirement home, . . . solely for the purpose of amusement and recreation of its members, residents, or patients, when:  
(A) no player or other person furnishes anything of more than nominal value for the opportunity to participate; and  
(B) the prizes awarded or to be awarded are nominal;

. . . .

According to this statute, the Board may charge no more than a nominal value for the opportunity to play bingo. The statute does not prohibit the use of cash for prizes.

Because of the limitations imposed on organizations playing bingo in accordance with Texas Occupations Code §2001.551(b)(3), a bingo fundraiser at the Halloween carnival would not be permissible under that section. However, Texas Occupations Code §2001.551(b)(1) allows a person to conduct bingo under a license and is not similarly limited.<sup>1</sup>

Unless the Board is licensed to conduct charitable bingo, the Board may not conduct bingo to raise funds. If the Board obtained a license to conduct bingo, it could have a bingo party with donated prizes; it could charge more than a nominal amount for the opportunity to play; it could, consistent with Texas Occupations Code §2001.420, offer a prize of not more than \$750.00 for a single game and an aggregate of not more than \$2500.00 per occasion; and it could have a charitable bingo fund raiser.<sup>2</sup>

Texas Occupations Code §2001.101(a) provides that an authorized organization eligible for a license to conduct bingo is one of the following:

- (1) a religious society that has existed in this state for at least eight years;
- (2) a nonprofit organization:
  - (A) whose predominant activities are for the support of medical research or treatment programs; and
  - (B) that for at least three years:
    - (i) must have had a governing body or officers elected by a vote of members or by a vote of delegates elected by the members; or
    - (ii) must have been affiliated with a state or national organization organized to perform the same purposes as the nonprofit organization;
- (3) a fraternal organization;
- (4) a veterans organization; or
- (5) a volunteer fire department.

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## SUMMARY

Consistent with Texas Occupations Code Section 2001.551(b)(3), a senior citizen's organization may play bingo without obtaining a charitable bingo license when no more than a nominal value is charged to play and prizes are nominal; a bingo fund raiser would not be permissible under this section. As an alternative, if the Crockett Senior Center Board applies and is licensed as an authorized organization under Texas Occupations Code §2001.101, the Board could hold bingo occasions to raise funds for charitable purposes.

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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 Bingo Enabling Act 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 change 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.

Yours truly,

William L. Atkins, Director  
Charitable Bingo Operations Division

Cc: C. Tom Clowe, Jr., Chairman  
James A. Cox, Jr., Commissioner  
Rolando Olvera, Commissioner  
Kimberly L. Kiplin, General Counsel  
Bruce Miner, Licensing Manager  
Sandra Joseph, Assistant General Counsel

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## FOOTNOTES

### Footnote 1

Texas Occupations Code §2001.551(b)(1) provides as follows:

(b) A person conducting, promoting, or administering bingo commits an offense if the person conducts, promotes, or administers bingo other than:

- (1) under a license issued under this chapter;

### Footnote 2

Texas Occupations Code §2001.453(a)(2) provides as follows:

(a) A licensed authorized organization may draw a check on its bingo account only for:

- (1) the payment of necessary and reasonable bona fide expenses, including compensation of personnel, as permitted under Section 2001.458 incurred and paid in connection with the conduct of bingo;
- (2) the disbursement of net proceeds derived from the conduct of bingo to charitable purposes; or
- (3) the transfer of net proceeds derived from the conduct of bingo to the organization's bingo savings account pending a disbursement to a charitable purpose.