

BAO 2004-1103-0035	Date Issued: 12/20/2004	View Request <a href="#">RQ 2004-1103-0035</a>
--------------------	-------------------------	--

Summary:	Neither the Bingo Enabling Act (Texas Occupations Code Chapter 2001) nor the Charitable Bingo Administrative Rules (16 Tex. Admin. Code Chapter 402) address eligibility requirements for being a bookkeeper. A licensed organization is required to maintain records to substantiate payments as necessary and reasonable expenses that are included on required reports to the Commission.
----------	--

**FIRST CLASS UNITED STATES MAIL**  
**and**  
**CERTIFIED MAIL NO. 7001 2510 0001 3954**  
**RETURN RECEIPT REQUESTED**

BAO # 2004-1103-0035

December 20, 2004

Martin Sachnik  
FOE63 Secretary  
213 Estelle  
Houston, TX 77003

Re: Bingo Workers

Dear Mr. Sachnik:

On November 2, 2004, the Texas Lottery Commission (the "Commission") received your request for an advisory opinion related to bingo workers. Below is your question followed by the Commission's response.

Regarding eligibility to work for a bingo operation, is it lawful for the bookkeeper to be married to the bingo operation owner (re: Bingo Paradise Inc. no. 30113446618)? It appears that under the section 2001.411d3 and 2001.154a5 clauses of the Bingo Enabling Act that no worker can be married to anyone with more than a 10% interest in the operation.

Regarding the primary operator and other workers, is there any provision for proof of services rendered which would permit them to be paid wages? eg. signed timesheets or time punch cards.

ANSWER:

In response to your first question, neither the Bingo Enabling Act (Act) (Texas

Occupations Code Chapter 2001) nor the Charitable Bingo Administrative Rules, 16 TAC 402, address eligibility requirements for being a bookkeeper.

Your request referred to Texas Occupations Code Section 2001.154(a)(5) and Section 2001.411(d)(3) as appearing to prohibit a worker from being married to anyone with more than a 10% interest in the operation. Those sections in pertinent part state the following:

Section 2001.154. Ineligible Persons.

(a) The commission may not issue a commercial lessor license to or renew a commercial lessor license of:

- (1) a person convicted of a felony, criminal fraud, a gambling or gambling-related offense, or a crime of moral turpitude if less than 10 years has elapsed since termination of a sentence, parole, mandatory supervision, or community supervision served for the offense;
- (2) a public officer who receives any consideration, direct or indirect, as owner or lessor of premises offered for conducting bingo;
- (3) a person who extends credit to, loans money to, or pays or provides for the payment of license fees for an authorized organization;
- (4) a distributor or manufacturer;
- (5) a person in which a person covered by Subdivision (1), (2), (3), or (4) or a person married or related in the first degree by consanguinity or affinity, as determined under Chapter 573, Government Code, to one of those persons has greater than a 10 percent proprietary, equitable, or credit interest or in which one of those persons is active or employed;

...

Section 2001.411. Persons Operating or Conducting Bingo.

(d) The commission, without regard to a person's membership status in a licensed authorized organization, by rule may restrict involvement in the conduct, promotion, or administration of bingo by:

...

- (3) a person related in the first degree by consanguinity or affinity, as determined under Chapter 573, Government Code, to a person having an interest in or active in a licensed commercial lessor.

...

Section 2001.154(a)(5) provides that the Commission may not issue to or renew the commercial lessor license of a person<sup>[11](#)</sup> in which a person covered by Subdivision (1), (2), (3), or (4), or a person married to a person covered by Subdivision (1), (2), (3), or (4), has greater than a 10% credit interest. This statute does not prohibit a worker from being married to anyone with more than a 10% interest in the commercial lessor license.

In response to your second question, there is no "provision for proof of services rendered

which would permit” the operator and other workers to be paid. However, Section 2001.453 of the Act provides the following:

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

(1) . . . 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;

. . .

Section 2001.458 provides the following:

(a) An item of expense may not be incurred or paid in connection with the conduct of bingo except an expense that is reasonable or necessary to conduct bingo, including an expense for:

. . .

(7) bookkeeping, legal, or accounting services related to bingo;

(8) fees for callers, cashiers, ushers, janitorial services, and utility supplies and services.

. . .

A licensed authorized organization is required by Section 2001.505 of the Act to submit quarterly reports to the Commission stating each item of expense. A licensed authorized organization is also required to maintain records to substantiate payments as necessary and reasonable expenses.

---

### **SUMMARY**

Neither the Bingo Enabling Act (Texas Occupations Code Chapter 2001) nor the Charitable Bingo Administrative Rules (16 Tex. Admin. Code Chapter 402) address eligibility requirements for being a bookkeeper. A licensed organization is required to maintain records to substantiate payments as necessary and reasonable expenses that are included on required reports to the Commission.

---

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

---

<sup>[1]</sup> Section 2001.002 provides the following definition:  
(20) "Person" means an individual, partnership, corporation, or other group.