



INTEROFFICE MEMO

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

From: Deanne Rienstra, Assistant General Counsel

Date: October 5, 2017

Re: Consideration of and possible discussion and/or action, including adoption, on new 16 TAC §401.324 (Prize Winner Election To Remain Anonymous)

Attached is a draft rule prepared for submission to the *Texas Register* to adopt new 16 TAC §401.324 (Prize Winner Election To Remain Anonymous), without changes to the proposed text as published in the August 25, 2017, issue of the *Texas Register* (42 TexReg 4219) (also attached). The purpose of the new rule is to implement recent legislative changes made by House Bill 59, relating to certain lottery prize winners' choice to remain anonymous. House Bill 59 establishes Texas Government Code §466.411, effective September 1, 2017, which will apply to any lottery prize claim submitted after January 1, 2018. This legislation permits a lottery prize winner of \$1,000,000 or more, who is a natural person, the opportunity to elect to remain anonymous, in certain instances, by prohibiting all personally identifiable information from being released to the public. Prior to this legislation, the name of the prize winner, whether a natural person or legal entity, was released to the public pursuant to the Texas Public Information Act. Additionally, the name of a prize winner who elects to receive the prize payments in periodic installments will only be withheld for thirty (30) days from the date of the claim. House Bill 59 requires the Commission to adopt rules and procedures to implement this law no later than December 1, 2017.

The Commission received no written comments on the proposed new rule during the public comment period.

Recommendation: Staff recommends the Commission adopt the attached new 16 TAC §401.324 (Prize Winner Election To Remain Anonymous).

1 The Texas Lottery Commission (Commission) adopts new 16 TAC §401.324 (Prize
2 Winner Election to Remain Anonymous), without changes to the proposed text as published in the
3 August 25, 2017, issue of the *Texas Register* (42 TexReg 4219). The purpose of the new rule is
4 to implement recent legislative changes made by House Bill 59, relating to certain lottery prize
5 winners' choice to remain anonymous. House Bill 59 establishes Texas Government Code
6 §466.411, effective September 1, 2017, which will apply to any lottery prize claim submitted after
7 January 1, 2018. This legislation permits a lottery prize winner of \$1,000,000 or more, who is a
8 natural person, the opportunity to elect to remain anonymous, in certain instances, by prohibiting
9 all personally identifiable information from being released to the public. Prior to this legislation,
10 the name of the prize winner, whether a natural person or legal entity, was released to the public
11 pursuant to the Texas Public Information Act. Additionally, the name of a prize winner who elects
12 to receive the prize payments in periodic installments will only be withheld for thirty (30) days
13 from the date of the claim. House Bill 59 requires the Commission to adopt rules and procedures
14 to implement this law no later than December 1, 2017.

15 The Commission received no written comments on the proposed new rule during the public
16 comment period.

17 The new rule is adopted under Texas Government Code §466.015, which authorizes the
18 Commission to adopt rules governing the operation of the lottery and §467.102, which authorizes
19 the Commission to adopt rules for the enforcement and administration of the laws under the
20 Commission's jurisdiction.

21 This adoption is intended to implement Texas Government Code, Chapter 466.
22 §401.324. Prize Winner Election to Remain Anonymous.

1 (a) A natural person who is a prize winner of a lottery prize in an amount equal to \$1 million or
2 more, or who is an owner of a beneficial interest in a legal entity that is a prize winner of a lottery
3 prize in an amount equal to \$1 million or more, may on the date the winner claims the prize elect
4 to remain anonymous and prohibit all personally identifiable information from being released to
5 the public.

6 (1) A prize winner who elects to remain anonymous must specify that choice at the time of
7 claiming their lottery prize.

8 (2) If the prize is paid in periodic installments, and the prize winner elects to remain
9 anonymous, the commission may release the prize winner's name on or after the 30th day after the
10 date the person claims the lottery prize. All other personally identifiable information is subject to
11 section 466.022(b)(3) of the State Lottery Act and the Texas Public Information Act (Texas
12 Government Code, Chapter 552).

13 (b) "Prize winner" means a person who presents a valid winning ticket, claims a lottery prize, and
14 is recognized by the commission as the person entitled to receive lottery prize payments. The term
15 does not include an assignee of a lottery prize.

16 (c) "Personally identifiable information" means information that alone or in conjunction with other
17 information identifies an individual, including an individual's name, social security number, date
18 of birth, or government-issued identification number such as a driver's license or passport.
19 "Personally identifiable information" does not include the name of the prize winner's city or county
20 of residence.

21 (d) The amount of a lottery prize is determined by the total amount of prize money paid to a prize
22 winner for a single lottery prize claim, before deducting any federal tax withholdings or other
23 deductions required by law. If a prize winner selects to receive the cash value option, the amount

1 the commission paid to fund the cash value option (before taxes and other deductions) will be
2 considered the prize money paid. In accordance with lottery claim procedures, all prizes resulting
3 from a single lottery ticket will be combined on a single lottery claim form and considered a single
4 lottery prize claim for determining the total amount of prize money paid.

5 (e) The commission may release the name of a legal entity that is a prize winner as well as the
6 name of the authorized representative of the legal entity (whose name is printed on the lottery
7 claim form), unless the authorized representative is a beneficial interest owner of the legal entity
8 and elects to remain anonymous.

9 (f) A prize winner's choice to remain anonymous under this rule does not prohibit the commission
10 from requiring, for claim validation and lottery prize processing purposes, certain government-
11 issued identification, including but not limited to a driver's license, social security card, or passport,
12 of all natural persons who are prize winners or owners of a beneficial interest of a legal entity prize
13 winner.

14 (g) In certain instances, the lottery prize claim processing may be delayed and not occur on the
15 same date the lottery claim is submitted to the commission. In these cases, the day of final
16 validation and processing of the lottery prize will be considered the "date on which the claim is
17 made".

18 (h) The commission may release personally identifiable information of lottery prize winners to
19 other state agencies or governmental bodies as required by law.

Bob Biard
General Counsel
Texas Lottery Commission
Earliest possible date of adoption: September 24, 2017
For further information, please call: (512) 344-5012

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SUBCHAPTER D. LOTTERY GAME RULES

16 TAC §401.323

The Texas Lottery Commission ("Commission") proposes the repeal of 16 TAC §401.323 ("MONOPOLY MILLIONAIRES' CLUB™" Game Rule). The purpose of the proposed repeal is to remove references to a discontinued multi-jurisdiction lottery draw game no longer offered by the Commission.

Kathy Pyka, Controller, has determined that for each year of the first five years the repeal will be in effect, there will be no significant fiscal impact for state or local governments as a result of the proposed repeal. There will be no adverse effect on small businesses, micro businesses, or local or state employment. There will be no additional economic cost to persons required to comply with the repeal, as proposed. Furthermore, an Economic Impact Statement and Regulatory Flexibility Analysis is not required because the repeal will not have an adverse economic effect on small businesses as defined in Texas Government Code §2006.001(2).

Michael Anger, Director of Lottery Operations, has determined that for each year of the first five years the proposed repeal will be in effect, the public benefit anticipated is the elimination of references to a discontinued game as well as the minimization of player confusion.

The Commission requests comments on the proposed repeal from any interested person. Comments on the proposed repeal may be submitted to Ryan Mindell, Assistant General Counsel, by mail, at Texas Lottery Commission, P.O. Box 16630, Austin, Texas 78761-6630; by facsimile at (512) 344-5189; or by email at legal.input@lottery.state.tx.us. Comments must be received within 30 days after publication of this proposal in the *Texas Register* in order to be considered.

This repeal is proposed under Texas Government Code §466.015, which authorizes the Commission to adopt rules governing the operation of the lottery, §466.451, which authorizes the Commission to adopt rules relating to a multi-jurisdiction lottery game, and §467.102, which authorizes the Commission to adopt rules for the enforcement and administration of the laws under the Commission's jurisdiction.

This proposal is intended to implement Texas Government Code, Chapter 466.

§401.323. "MONOPOLY MILLIONAIRES' CLUB™" Game Rule.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on August 9, 2017.
TRD-201703037

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16 TAC §401.324

The Texas Lottery Commission (Commission) proposes new 16 TAC §401.324 (Prize Winner Election to Remain Anonymous). The purpose of the new rule is to implement recent legislative changes made by House Bill 59, relating to certain lottery prize winners' choice to remain anonymous. House Bill 59 establishes Texas Government Code §466.411, effective September 1, 2017, which will apply to any lottery prize claim submitted after January 1, 2018. This legislation, signed by Governor Abbott on June 12, 2017, permits a lottery prize winner of \$1,000,000 or more, who is a natural person, the opportunity to elect to remain anonymous, in certain instances, by prohibiting all personally identifiable information from being released to the public. Prior to this legislation, the name of the prize winner, whether a natural person or legal entity, was released to the public pursuant to the Texas Public Information Act. Additionally, the name of a prize winner who is a natural person, but who elects to receive the prize payments in periodic installments, will only be withheld for thirty (30) days from the date of the claim. House Bill 59 requires the Commission to adopt rules and procedures to implement this law no later than December 1, 2017.

Kathy Pyka, Controller, has determined that for each year of the first five years the new rule will be in effect, there will be no significant fiscal impact for state or local governments as a result of the proposed new rule. There will be no adverse effect on small businesses, micro businesses, or local or state employment. There will be no additional economic cost to persons required to comply with the new rule, as proposed. Furthermore, an Economic Impact Statement and Regulatory Flexibility Analysis is not required because the new rule will not have an adverse economic effect on small businesses as defined in Texas Government Code §2006.001(2).

Michael Anger, Director of Lottery Operations, has determined that for each year of the first five years the proposed new rule will be in effect, the public benefit anticipated is the opportunity for certain prize winners of a lottery prize in an amount equal to \$1 million or more to elect to remain anonymous and prohibit all personally identifiable information from being released to the public.

The Commission requests comments on the proposed new rule from any interested person. Comments on the new rule may be submitted to Deanne Rienstra, Assistant General Counsel, by mail at Texas Lottery Commission, P.O. Box 16630, Austin, Texas 78761-6630; by facsimile at (512) 344-5189; or by email at legal.input@lottery.state.tx.us. Comments must be received within 30 days after publication of this proposal in the *Texas Register* in order to be considered.

The new rule is proposed under Texas Government Code §466.015, which authorizes the Commission to adopt rules governing the operation of the lottery and §467.102, which authorizes the Commission to adopt rules for the enforcement and administration of the laws under the Commission's jurisdiction.

This proposal is intended to implement Texas Government Code, Chapter 466.

§401.324. Prize Winner Election To Remain Anonymous.

(a) A natural person who is a prize winner of a lottery prize in an amount equal to \$1 million or more, or who is an owner of a beneficial interest in a legal entity that is a prize winner of a lottery prize in an amount equal to \$1 million or more, may on the date the winner claims the prize elect to remain anonymous and prohibit all personally identifiable information from being released to the public.

(1) A prize winner who elects to remain anonymous must specify that choice at the time of claiming their lottery prize.

(2) If the prize is paid in periodic installments, and the prize winner elects to remain anonymous, the commission may release the prize winner's name on or after the 30th day after the date the person claims the lottery prize. All other personally identifiable information is subject to section 466.022(b)(3) of the State Lottery Act and the Texas Public Information Act (Texas Government Code, Chapter 552).

(b) "Prize winner" means a person who presents a valid winning ticket, claims a lottery prize, and is recognized by the commission as the person entitled to receive lottery prize payments. The term does not include an assignee of a lottery prize.

(c) "Personally identifiable information" means information that alone or in conjunction with other information identifies an individual, including an individual's name, social security number, date of birth, or government-issued identification number such as a driver's license or passport. "Personally identifiable information" does not include the name of the prize winner's city or county of residence.

(d) The amount of a lottery prize is determined by the total amount of prize money paid to a prize winner for a single lottery prize claim, before deducting any federal tax withholdings or other deductions required by law. If a prize winner selects to receive the cash value option, the amount the commission paid to fund the cash value option (before taxes and other deductions) will be considered the prize money paid. In accordance with lottery claim procedures, all prizes resulting from a single lottery ticket will be combined on a single lottery claim form and considered a single lottery prize claim for determining the total amount of prize money paid.

(e) The commission may release the name of a legal entity that is a prize winner as well as the name of the authorized representative of the legal entity (whose name is printed on the lottery claim form), unless the authorized representative is a beneficial interest owner of the legal entity and elects to remain anonymous.

(f) A prize winner's choice to remain anonymous under this rule does not prohibit the commission from requiring, for claim validation and lottery prize processing purposes, certain government-issued identification, including but not limited to a driver's license, social security card, or passport, of all natural persons who are prize winners or owners of a beneficial interest of a legal entity prize winner.

(g) In certain instances, the lottery prize claim processing may be delayed and not occur on the same date the lottery claim is submitted to the commission. In these cases, the day of final validation and processing of the lottery prize will be considered the "date on which the claim is made".

(h) The commission may release personally identifiable information of lottery prize winners to other state agencies or governmental bodies as required by law.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on August 9, 2017.

TRD-201703035

Bob Biard

General Counsel

Texas Lottery Commission

Earliest possible date of adoption: September 24, 2017

For further information, please call: (512) 344-5012

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TITLE 19. EDUCATION

PART 2. TEXAS EDUCATION AGENCY

CHAPTER 33. STATEMENT OF INVESTMENT OBJECTIVES, POLICIES, AND GUIDELINES OF THE TEXAS PERMANENT SCHOOL FUND
SUBCHAPTER AA. COMMISSIONER'S RULES

19 TAC §33.1001

The Texas Education Agency proposes an amendment to §33.1001, concerning payments for remittance to the Charter District Bond Guarantee Reserve Fund. The proposed amendment would change the timing and amount of payment by charter holders to the Charter District Bond Guarantee Reserve Fund established under the Texas Education Code (TEC), §45.0571, as amended by Senate Bill (SB) 1480, 85th Texas Legislature, Regular Session, 2017.

TEC, §45.0571, authorizes the commissioner to establish rules related to the Charter District Bond Guarantee Reserve Fund. The statute, as amended by SB 1480, 85th Texas Legislature, Regular Session, 2017, provides that a charter district that has a bond guaranteed as provided by TEC, Chapter 45, Subchapter C, must remit to the commissioner, for deposit in the Charter District Bond Guarantee Reserve Fund, an amount equal to 20% of the savings to the charter district resulting from the lower interest rate on the bond due to the guarantee by the permanent school fund.

The proposed amendment would add new subsection (c) applicable to charter district bonds guaranteed under 19 TAC §33.67, Bond Guarantee Program for Charter Schools, that receive final approval from the commissioner of education in the form of the permanent school fund certificate on or after September 1, 2017. The new subsection would require a payment from the charter district that is equal to 20% of the savings on the bond due to the guarantee by the permanent school fund.

The payment would be due within 30 days of bond closing and be calculated in a manner similar to the existing rule, with the differences being that all amounts will be paid in one upfront payment and the amounts for the savings in future years will be discounted to their present value and included as part of the upfront payment. The discount factor will be the yield to worst of the Bloomberg Barclays US Aggregate 3-5 Year Bond Index on the last business day of the previous month.

The proposed amendment would also provide for the commissioner to choose a replacement data source if the two indices referenced in the rule become discontinued. The commissioner would be allowed to choose another data source for a reasonable period of time until the rule could be amended with another acceptable data source.