


INTEROFFICE MEMO

Gary Grief, Executive Director

Alfonso D. Royal III, Charitable Bingo Operations Director

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

From: Alfonso D. Royal III, Charitable Bingo Operations Director 

Date: December 7, 2017

Re: Consideration of and possible discussion and/or action on the status of grandfathered bingo commercial lessors and the transfer of commercial lessor licenses

A grandfathered bingo commercial lessor is one continuously licensed since June 10, 1989. A grandfathered lessor may lease to (and collect rent from) up to seven organizations, in contrast to non-grandfathered lessors who may lease only to one organization. There are approximately 199 commercial lessor licenses in this category. Fifty-two of the 199 licenses are in "administrative hold" status, which means that they currently are not being utilized but are still in effect.

The Charitable Bingo Operations Division's (CBOD) historical practice has been to allow a grandfathered lessor to transfer their lessor license, with all the grandfathered rights, to another person. This practice primarily benefitted individuals who are grandfathered lessors, because a legal entity (e.g., corporation, partnership) can change ownership of the entity without transferring the license and without Bingo Division approval. The last individual (non-legal entity) grandfathered lessor license transfer was approved in 2015.

Commission staff has identified an interpretation of the bingo statutes that the grandfathered rights attach only to the original licensee, not the license, and thus are not transferable to another person. I communicated this interpretation to the charitable bingo community in the August 2017 "Director's Message" publication (excerpt attached), which generated industry criticism that the CBOD was improperly changing the historical practice without going through the rulemaking process. Industry representatives urged the Director to clarify that the historical practice will not change until the Commission goes through a formal rulemaking and adopts a rule to change the practice.

On November 9, I issued a follow-up communication (also attached) stating the CBOD plans to continue discussing the issue of grandfathered lessors and the transfer of license rights in the coming months. In the interim, and until further notice is provided, the CBOD will continue the historical practices it has used with respect to the transfer of licenses.

Attachments



85th Legislative Update

The 85th Texas Legislative Regular Session concluded Monday, May 29th. There were four bills related to charitable bingo which became law, specifically:

Senate Bill 549, by Senator Lois Kolkhorst, relating to refunds of certain bingo licensing fees or registration fees. This bill provides express authority to the Commission to refund license and registration fees and allows the Commission to retain a portion to defray administrative costs. The bill is effective January 1, 2018.

House Bill 874, by Representative John Kuempel, relating to a charitable raffle ticket awarded as a bingo prize. This bill authorizes a licensed organization conducting bingo to award as a bingo prize a ticket for a charitable raffle conducted under Occupations Code Chapter 2002. The bill was effective May 29, 2017.

House Bill 2578, by Representative Senfronia Thompson, relating to the elimination of certain fees for licensure and the disposition of certain fees collected by the Commission under the Bingo Enabling Act. This bill

contains numerous provisions that include eliminating the requirement for charities' bingo license fees and worker registration fees, requiring the local share of prize fees currently allocated to counties and cities to be reduced on a pro rata basis as necessary to retain amounts required for the administration of bingo, and eliminating the prize fee on prizes of \$5 or less. The bill is effective September 1, 2017.

Senate Bill 2065, eliminates the unit manager license and associated fee structure. The bill is effective September 1, 2017.

The CBOD will now undertake the task of implementing the provisions of bills that have been enacted. As we go through the process of complying with this legislation there will be numerous required changes. There will also be significant administrative rulemaking that will be a part of this process, and as in the past, the CBOD will consult with the Industry Stakeholder workgroup.

The CBOD fall statewide training will include an overview on the newly enacted legislation. Stay tuned.

Transferring a “Grandfathered” Commercial Lessor License

A commercial lessor license may be transferred to another individual or entity provided that the individual or entity meets the requirements for licensure under Subchapter D of the Bingo Enabling Act (BEA) and the Texas Lottery Commission approves the transfer. The BEA does not provide for “grandfathered” commercial lessor licenses, but it does grandfather (exempt) some current licensees from some of the eligibility requirements in Subchapter D. **These grandfather rights are attached to the licensee, not the license, and they are not transferable.** Therefore, while a grandfathered lessor may transfer their license to another individual or entity, the transferee is not grandfathered from any of the eligibility requirements.

This communication is a follow-up regarding the August 2017 Director's Message article "Transferring a 'Grandfathered' Commercial Lessor License." That article was intended to be an advisory guideline on the rights attached to the licensee and the license under Bingo Enabling Act Sections 2001.152(b) and 2001.160.

However, the Charitable Bingo Operations Division (CBOD) plans to continue discussing the issue of grandfathered lessors and the transference of license rights in the coming months to determine how CBOD will address this in the near future. In the interim and until further notice is provided, the CBOD will continue the historical practices it has used with respect to the transfer of licenses.

If you have questions or concerns about a specific license, please do not hesitate to contact the CBOD.

