



INTEROFFICE MEMO

Gary Grief, Executive Director

Alfonso D. Royal III, Charitable Bingo Operations Director

	Approved	Denied
To: J. Winston Krause, Chairman Carmen Arrieta-Candelaria, Commissioner Doug Lowe, Commissioner Robert Rivera, Commissioner		
From: Deanne Rienstra, Special Counsel <i>DR</i>		
Date: April 12, 2018		
Re: Consideration of and possible discussion and/or action, including proposal, on amendments to 16 TAC §401.308 ("Cash Five" Draw Game Rule)		

Attached for your consideration is Commission staff's proposal on amendments to 16 TAC §401.308 ("Cash Five" Draw Game Rule). The purpose of the amendments is to change the Cash Five game matrix, offer guaranteed (fixed) prizes and set a liability limit for the Match 5 top prize. The new game matrix will change from the selection of 5 numbers out of a field of 37 numbers to a selection of 5 numbers out of a field of 35 numbers. This matrix change will improve the overall odds to win a prize in the Cash Five game.

The proposed amendments offer guaranteed prizes per prize tier level for matching three or more of the drawn winning combination of numbers and will award a free Cash Five Quick Pick (\$1 value) for the fourth tier prize level in which a player matches 2 of the 5 numbers selected in the drawing. The amendments also propose to set a liability limit of \$75,000 for the Match 5 top prize in the game. The Match 5 prize in Cash Five is proposed to be a fixed amount of \$25,000, unless the Match 5 number of winners is greater than three (3), then the Match 5 prize shall be paid on a pari-mutuel rather than fixed prize basis and the liability limit of \$75,000 will be divided equally by the number of Match 5 winners. The practice of setting a liability limit is a common lottery industry practice for games that offer fixed or guaranteed prizes. The cost of the ticket will remain at \$1 per play.

The Commission will hold a public hearing on this proposal on May 9, 2018, at 9:30 a.m., at 611 E. 6th Street, Austin, Texas 78701.

Recommendation: Staff recommends the Commission initiate the rulemaking process by publishing the attached proposal in the *Texas Register* to receive public comment for a period of 30 days.

1 The Texas Lottery Commission (Commission) proposes amendments to 16 TAC §401.308
2 (“Cash Five” Draw Game Rule). The purpose of the amendments is to change the Cash Five game
3 matrix, offer guaranteed (fixed) prizes and set a liability limit for the Match 5 top prize. The new
4 game matrix will change from the selection of 5 numbers out of a field of 37 numbers to a selection
5 of 5 numbers out of a field of 35 numbers. This matrix change will improve the overall odds to
6 win a prize in the Cash Five game.

7 The proposed amendments offer guaranteed prizes per prize tier level for matching three
8 or more of the drawn winning combination of numbers and will award a free Cash Five Quick Pick
9 (\$1 value) for the fourth tier prize level in which a player matches 2 of the 5 numbers selected in
10 the drawing. The amendments also propose to set a liability limit of \$75,000 for the Match 5 top
11 prize in the game. The Match 5 prize in Cash Five is proposed to be a fixed amount of \$25,000,
12 unless the Match 5 number of winners is greater than three (3), then the Match 5 prize shall be
13 paid on a pari-mutuel rather than fixed prize basis and the liability limit of \$75,000 will be divided
14 equally by the number of Match 5 winners. The practice of setting a liability limit is a common
15 lottery industry practice for games that offer fixed or guaranteed prizes. The cost of the ticket will
16 remain at \$1 per play.

17 Kathy Pyka, Controller, has determined that for each year of the first five years the
18 amendments will be in effect, there will be no significant fiscal impact for state or local
19 governments as a result of the proposed amendments. There will be no adverse effect on small
20 businesses or rural communities, micro businesses, or local or state employment. There will be no
21 additional economic cost to persons required to comply with the amendments as
22 proposed. Furthermore, an Economic Impact Statement and Regulatory Flexibility Analysis is not

1 required because the proposed amendments will not have an adverse economic effect on small
2 businesses or rural communities as defined in Texas Government Code §2006.001(1-a) and (2).

3 Ryan Mindell, Acting Director of Lottery Operations, has determined that for each year of
4 the first five years the proposed amendments will be in effect, the public benefit expected is
5 increased sales due to additional player interest in the better overall odds and guaranteed prize tiers
6 in the Cash Five game. These increased sales will lead to additional revenue for the Foundation
7 School Fund and increased commissions for retailers.

8 Pursuant to Texas Government Code §2001.0221, the Commission provides the following
9 Government Growth Impact Statement for the proposed amendments to the “Cash Five” Draw
10 Game Rule. For each year of the first five years the proposed amendments will be in effect, Kathy
11 Pyka, Controller, has determined the following:

12 (1) The proposed rule amendments do not create or eliminate a government program.

13 (2) Implementation of the proposed rule amendments does not require the creation of new
14 employee positions or the elimination of existing employee positions.

15 (3) Implementation of the proposed rule amendments does not require an increase or
16 decrease in future legislative appropriations to the Commission.

17 (4) The proposed rule amendments do not require an increase or decrease in fees paid to
18 the Commission.

19 (5) The proposed rule amendments do not create a new regulation.

20 (6) The proposal amends, but does not expand or limit, an existing Commission rule for a
21 lottery draw game.

22 (7) The proposed rule amendments do not increase or decrease the number of individuals
23 subject to the rule’s applicability.

1 (8) The proposed rule amendments do not positively or adversely affect this state's
2 economy.

3 The Commission requests comments on the proposed amendments from any interested
4 person. Comments on the proposed amendments may be submitted to Deanne Rienstra, Special
5 Counsel, by mail at Texas Lottery Commission, P.O. Box 16630, Austin, Texas 78761-6630; by
6 facsimile at (512) 344-5189; or by email at *legal.input@lottery.state.tx.us*. The Commission will
7 hold a public hearing on this proposal on May 9, 2018, at 9:30 a.m., at 611 E. 6th Street, Austin,
8 Texas 78701. Comments must be received within 30 days after publication of this proposal in the
9 Texas Register in order to be considered.

10 These amendments are proposed under Texas Government Code §466.015, which
11 authorizes the Commission to adopt rules governing the operation of the lottery, and §467.102,
12 which authorizes the Commission to adopt rules for the enforcement and administration of the
13 laws under the Commission's jurisdiction.

14 This proposal is intended to implement Texas Government Code, Chapter 466.
15 §401.308. "Cash Five" Draw Game Rule.

16 (a) (No change.)

17 (b) Definitions. In addition to the definitions provided in §401.301 of this title (relating to General
18 Definitions), and unless the context in this rule otherwise requires, the following definitions apply.

19 ~~(1) Advance Play—A player may purchase a Cash Five ticket for any of the five Cash Five~~
20 ~~drawings immediately following the current drawing. Example: On Monday, before the drawing,~~
21 ~~a Cash Five ticket can be purchased for Tuesday, Wednesday, Thursday, Friday, or Saturday~~
22 ~~drawings.~~

~~(1)(2)~~ Multi-draw--A player may purchase a Cash Five play ticket for up to 12 consecutive drawings beginning with the current draw.

~~(2)(3)~~ Number--Any play integer from one through 35 37 inclusive.

~~(3)(4)~~ Play--The five numbers selected ~~on each play board~~ and printed on the ticket.

~~(4)(5)~~ Play board--A field of the 35 37 numbers found on the playslip.

~~(5)(6)~~ Playslip--An optically readable card issued by the commission used by players of Cash Five to select plays. There shall be five play boards on each playslip identified as A, B, C, D, and E. A playslip has no pecuniary value and shall not constitute evidence of play ticket purchase or of numbers selected.

~~(c) Price of ticket. The price of each Cash Five play shall be \$1.00. Multiple draws are available for up to 12 consecutive draws beginning with the current draw. A player may purchase a Cash Five ticket for advance play.~~

~~(c)(d)~~ Play for Cash Five.

(1) Type of play. A Cash Five player must select 5 (five) five numbers out of a field of 35 (thirty-five) numbers in each play or allow number selection by a random number generator approved by the commission, referred to as Quick Pick. A winning play is achieved only when two, three, four, or five of the numbers selected by the player match, in any order, two, three, four, or five, respectively, of the five winning numbers drawn by the lottery.

(2) The price of a single Cash Five play for the Cash Five game is \$1.00.

~~(3)(2)~~ Method of play. The player may use playslips, or other commission-approved method of play, to make number selections. A ticket generated using a selection method that is not approved by the commission is not valid. A selection of a play may be made only if the request is made in person. Acceptable methods to select numbers for a play may include:

- 1 (A) using a self-service terminal;
- 2 (B) using a playslip;
- 3 (C) using a previously-generated "Cash Five" ticket provided by the player;
- 4 (D) requesting a retailer to use Quick Pick;
- 5 (E) requesting a retailer to manually enter numbers; or
- 6 (F) using a QR code generated through a Texas Lottery Mobile Application offered
- 7 and approved by the commission.

8 (4) Except as provided in subparagraph (c)(3) of this section, Cash Five plays must be

9 purchased using official Cash Five playslips. Playslips which have been mechanically completed

10 are not valid. Cash Five tickets must be printed on official Texas Lottery paper stock or, for third-

11 party point-of-sale systems approved by the commission, printed on paper stock or otherwise

12 issued in a manner approved by the commission to provide tangible evidence of participation in a

13 lottery game.

14 (5) Cash Five plays may be purchased only at a licensed location from a lottery retailer

15 authorized to sell draw game tickets.

16 (6) Cash Five tickets shall show the player's selection of numbers, or Quick Pick (QP)

17 numbers, boards played, drawing date(s), and serial numbers. It shall be the exclusive

18 responsibility of the player to verify the accuracy of the player's selection(s) and other data printed

19 on the ticket. A ticket is a bearer instrument until signed.

20 (7)(3) One prize per play. The holder of a winning play ticket may win only one prize per

21 play in connection with the winning numbers drawn and shall be entitled only to the highest prize

22 category won by those numbers.

23 (d)(e) Prizes for Cash Five.

(1) ~~Prize amounts.~~ The first, second, and third prize amounts, for each drawing, paid to each Cash Five player who selects a matching combination of numbers is a fixed amount shown in the chart below, Figure 16 TAC §401.308(e)(1). ~~will vary due to a pari-mutuel calculation.~~ The Match 5 top prize is a guaranteed (fixed) amount of \$25,000; provided that, in any drawing where the number of top prize winning plays is greater than three (3), the top prize shall be paid on a pari-mutuel rather than fixed prize basis and a liability cap of \$75,000 (Seventy-Five Thousand Dollars) will be divided equally by the number of top prize winning plays. In this case, the- ~~The calculation of the Match 5 top~~ a prize shall be rounded down so that prizes can be paid in multiples of whole dollars. Any part of the top pari-mutuel prize for a drawing that is not paid in prizes (breakage) shall be applied to offset prize expense. Each prize category breakage will carry forward to the next drawing for each respective prize category. The prize amounts are based on the total amount in the prize category for that Cash Five drawing distributed equally over the number of matching combinations in each prize category. ~~The Match 2 (fourth prize) fourth prize is a guaranteed free Cash Five Quick Pick ticket. \$2 prize.~~ All other prizes are paid in cash.

Figure: 16 TAC §401.308(d) §401.308(e)(1)

Prize Amounts

Matching Combinations	Prize Category	<u>Prize Amount</u>	Odds of Winning
<u>Match 5 - All five matching numbers in one play</u>	First (Top) Prize	<u>\$25,000.00*</u>	1: <u>324,632,435,897</u>
<u>Match 4 - Any four, but not five matching numbers in one play</u>	Second Prize	<u>\$350.00</u>	1: <u>2,1642,724</u>

<u>Match 3 - Any three, but not four or five matching numbers in one play</u>	Third Prize	<u>\$15.00</u>	1: <u>7588</u>
<u>Match 2 - Any two, but not three, four or five, matching numbers in one play.</u>	Fourth Prize	<u>Free Cash Five Quick Pick Ticket</u> <u>(\$1 value)</u>	1: <u>89</u>
<u>Totals</u>	<u>N/A</u>	<u>N/A</u>	1: <u>7.20</u>
<u><i>*In any drawing where the number of top prize winning plays is greater than three (3), the top prize shall be paid on a pari-mutuel rather than fixed prize basis and a liability cap of \$75,000 will be divided equally by the number of top prize winning plays.</i></u>			

(2) Prize pool. The prize pool for Cash Five prizes shall be a minimum of 50% of Cash Five sales. This pool will be allocated into two components. The first component consists of the funds necessary to pay all the fourth prize category \$2 prize winners. The first component is obtained by an allocation from the Cash Five prize pool to the fourth prize category so that all of the fourth prize category shares will each receive the guaranteed \$2 prize. The second component contains the remaining prize pool funds after subtraction of the first component allocation and will be referred to as the "residual prize pool". The residual prize pool will be allocated to the first, second, and third prize categories according to the percentages applicable for each prize category.

(3) Prize categories.

(A) First prize—The prize amount shall be calculated by dividing the prize category contributions by the number of shares for the prize category. A share is the matching combination;

1 in one play, of all five numbers of the five numbers drawn (in any order). Each first prize will be
2 paid in one lump sum payment. The five of five first prize of \$600 to \$2,500,000 must be claimed
3 at a Lottery claim center. Five of five prizes of over \$2,500,000 must be claimed at the commission
4 headquarters in Austin. The total prize category contribution for a drawing will include the
5 following:

6 (i) The direct prize category contribution shall be 40.15% of the residual
7 prize pool for the drawing.

8 (ii) If the first prize is not won by a Cash Five player from the drawing, the
9 direct prize category contribution will roll into the second prize category.

10 (B) Second prize The prize amount shall be calculated by dividing the prize
11 category contributions by the number of shares for the prize category. A share is the matching
12 combination, in one play, of any four of the five numbers drawn (in any order). The total prize
13 category contribution will include the following:

14 (i) The direct prize category contribution shall be 18.08% of the residual
15 prize pool for the drawing.

16 (ii) If the second prize is not won by a Cash Five player from the drawing,
17 the direct prize category contribution will roll into the third prize category.

18 (C) Third prize The prize amount shall be calculated by dividing the prize category
19 contributions by the number of shares for the prize category. A share is the matching combination,
20 in one play, of any three of the five numbers drawn (in any order). The total prize category
21 contribution will include the following:

22 (i) The direct prize category contribution shall be 41.77% of the residual
23 prize pool for the drawing.

(ii) ~~If the third prize is not won by a Cash Five player from the drawing, the direct prize category contribution will carry forward to the prize pool for the next drawing.~~

~~(D) Fourth prize. The prize amount is a guaranteed \$2.~~

~~(f) Ticket purchases.~~

~~(1) Cash Five tickets may be purchased only at a licensed location from a lottery retailer authorized to sell draw game tickets.~~

~~(2) Cash Five tickets shall show the player's selection of numbers, or Quick Pick (QP) numbers, boards played, drawing date, and serial numbers.~~

~~(3) It shall be the exclusive responsibility of the player to verify the accuracy of the player's selection(s) and other data printed on the ticket. A ticket is a bearer instrument until signed.~~

~~(4) Except as provided in subsection (d)(2) of this section, Cash Five tickets must be purchased using official Cash Five playslips. Playslips which have been mechanically completed are not valid. Cash Five tickets must be printed on official Texas Lottery paper stock or, for third-party point-of-sale systems approved by the commission, printed on paper stock or otherwise issued in a manner approved by the commission to provide tangible evidence of participation in a lottery game. Cash Five tickets must be purchased at a licensed location through an authorized retailer's terminal.~~

~~(e)(g) Drawings.~~

~~(1) The Cash Five drawings shall be held each week on Monday, Tuesday, Wednesday, Thursday, Friday, and Saturday evenings at 10:12 p.m. Central Time except that the drawing schedule may be changed by the executive director, if necessary.~~

~~(2) The drawings will be conducted by lottery officials.~~

1 (3) Each drawing shall determine, at random, five winning numbers in accordance with
2 Cash Five draw procedures. Any numbers drawn are not declared winning numbers until the
3 drawing is certified by the lottery in accordance with the draw procedures. The winning numbers
4 shall be used in determining all Cash Five winners for that drawing.

5 (4) Each drawing shall be witnessed by an independent certified public accountant. All
6 drawing equipment used shall be examined by a lottery drawing representative and the independent
7 certified public accountant immediately prior to a drawing and immediately after the drawing.

8 (5) A drawing will not be invalidated based on the financial liability of the lottery.

9 ~~(f)(h)~~ The executive director may authorize promotions in connection with Cash Five.

10 ~~(g)(i)~~ Announcement of incentive or bonus program. The executive director shall announce each
11 incentive or bonus program prior to its commencement. The announcement shall specify the
12 beginning and ending time, if applicable, of the incentive or bonus program and the value for the
13 award.