






# INTEROFFICE MEMO

Gary Grief, Executive Director

Michael P. Farrell, Charitable Bingo Operations Director

**To:** J. Winston Krause, Chairman  
Mark A. Franz, Commissioner  
Robert Rivera, Commissioner  
Erik C. Saenz, Commissioner

**From:** Tyler Vance, Assistant General Counsel 

**Date:** October 10, 2019

**Re:** Consideration of and possible discussion and/or action, including adoption, on amendments to 16 TAC §§ 402.401 (Temporary License), 402.413 (Military Service Members, Military Veterans, and Military Spouses), and 402.422 (Amendment to a Regular License to Conduct Charitable Bingo).

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Attached are draft rules prepared for submission to the *Texas Register* to adopt amendments to the referenced bingo rules without changes to the proposed text as published in the August 23, 2019, issue of the *Texas Register* (44 TexReg 4430) (also attached).

The amendments implement statutory changes required by the newly enacted House Bill 882 and Senate Bill 1200 from the Regular Session of the 86<sup>th</sup> Texas Legislature. Effective immediately, House Bill 882 extended the maximum length of a bingo occasion from 4 to 6 hours, and Rules 402.401 and 402.422 are being amended to comply with the new law. The extended hours will give organizations more time and flexibility in conducting bingo and will increase player convenience.

Senate Bill 1200 created an exemption from licensure for spouses of military members residing in Texas who are currently licensed in good standing in another state with substantially equivalent licensing requirements as Texas. The bill directed agencies to adopt rules to implement the new law by December 1, 2020, which the Commission is doing by amending Rule 402.413. The amended rule will make it easier for military spouses to work in the bingo industry while they are stationed in Texas.

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

Recommendation: Staff recommends that the Commission adopt amendments to the referenced bingo rules.

1 The Texas Lottery Commission (Commission) adopts amendments to 16 TAC §§ 402.401  
2 (Temporary License), 402.413 (Military Service Members, Military Veterans, and Military  
3 Spouses), and 402.422 (Amendment to a Regular License to Conduct Charitable Bingo) without  
4 changes to the proposed text as published in the August 23, 2019 issue of the *Texas Register* (44  
5 TexReg 4430). The purpose of the amendments is to implement statutory changes required by  
6 newly-enacted House Bill 882 and Senate Bill 1200 from the Regular Session of the 86th Texas  
7 Legislature. The amendments extend the maximum length of time for a bingo occasion from four  
8 to six hours and create a process for recognition of out-state-licenses held by military spouses  
9 residing in Texas.

10 A public comment hearing was held on Wednesday, September 4, 2019, at 10:00 a.m., at  
11 611 E. 6th Street, Austin, Texas 78701. The Commission received no written comments on the  
12 proposed rule amendments during the public comment period.

13 The rule amendments are adopted under Texas Occupations Code §2001.054, which  
14 authorizes the Commission to adopt rules to enforce and administer the Bingo Enabling Act; Texas  
15 Government Code §467.102, which authorizes the Commission to adopt rules for the laws under  
16 the Commission's jurisdiction; and Section 3 of HB 882 from the Regular Session of the 86th  
17 Texas Legislature, which requires the Commission to adopt rules for its implementation.

18 The adopted rule amendments implement Texas Occupations Code, Chapter 2001.  
19 §402.401. Temporary License.

20 (a) Definitions. The following words and terms, when used in this section, shall have the following  
21 meanings, unless the context clearly indicates otherwise:

22 (1) Bingo liability--Includes, but is not limited to, any applicable license fee, late license  
23 renewal fee, prize fee, penalty, interest, or administrative penalty.

1 (2) Regular license--A license to conduct bingo that is effective for a period of one year  
2 unless revoked or suspended by the Commission. A regular license may be referred to as an  
3 annual license.

4 (3) Temporary license--A license to conduct bingo that is in effect for a single bingo  
5 occasion.

6 (b) General.

7 (1) Requirements. The Commission may not issue a temporary license if the applicant has  
8 failed to file a required report, failed to pay a bingo liability, has not distributed the proceeds  
9 calculated on the quarterly report for a charitable purpose, or has a regular license in administrative  
10 hold.

11 (2) Duration. A temporary license is valid for no more than six [~~four~~] consecutive hours  
12 during any day.

13 (3) Display. The licensed authorized organization must conspicuously display during a  
14 temporary bingo occasion at the licensed bingo premises a temporary license, and, if applicable,  
15 verification of notification as referred to in subsection (d)(3)(D) of this section.

16 (4) Voluntary surrender of regular license.

17 (A) An authorized organization that no longer holds a regular license to conduct  
18 bingo may conduct any remaining designated temporary occasions so long as the total number of  
19 occasions does not exceed six per calendar year. If over six previously specified occasions remain,  
20 the licensed authorized organization must provide to the Commission written notification of no  
21 more than six of the dates of the temporary licenses that will be utilized. This notification must be  
22 provided within ten days of surrender of the regular license. The Commission will automatically  
23 revoke all temporary licenses in excess of the six per year.

1 (B) If the Commission denies or revokes a regular license by final and unappealable  
2 order, any temporary license held by the regular license holder that stated the specific date and  
3 time of any bingo occasion will likewise be denied or revoked.

4 (5) All records that are required to be maintained under a regular license must be  
5 maintained for a temporary bingo license.

6 (c) The playing time of a temporary bingo occasion may not conflict with the playing time of any  
7 other license at the bingo premises on that date unless otherwise provided by law.

8 (d) Regular license holder.

9 (1) A regular license holder must apply for a temporary license at least seven calendar days  
10 prior to the bingo occasion.

11 (2) Quarterly reports filed by a regular license holder must include proceeds from all  
12 licensed temporary occasions held during the quarter.

13 (3) The Commission may issue a temporary license to a regular license holder without  
14 listing the specific date or time of a bingo occasion. The temporary bingo occasion must be  
15 conducted at the same location as shown on the organization's regular license.

16 (A) The regular license holder must submit an application on the prescribed form  
17 that indicates the number of temporary licenses requested for the license period.

18 (B) The regular license holder must notify the Commission of the date and time the  
19 temporary license will be used by submitting a form prescribed by the Commission.

20 (C) Any temporary license issued without the specific date or time identified must  
21 be used prior to the expiration date of the regular license in effect at the time the temporary license  
22 application was filed.

1 (D) The Commission shall provide a verification of receipt of notification that must  
2 be posted adjacent to the applicable temporary license during the bingo occasion.

3 (4) In accordance with Occupations Code, §2001.108(e), the Commission may issue to a  
4 regular license holder additional temporary licenses in excess of the number of temporary licenses  
5 specified under Occupations Code, §2001.103(e) if the following conditions are met:

6 (A) The regular license holder submits a completed application on the form  
7 prescribed by the Commission;

8 (B) The date and times stated on the application are consistent with the day and  
9 times licensed to the organization that has ceased or will cease to conduct bingo as provided in  
10 Occupations Code, §2001.108; and

11 (C) The Commission has not acted on an amendment application filed under  
12 Occupations Code, §2001.108(a).

13 (5) If the organization is issued the amendment license filed under Occupations Code,  
14 §2001.108 prior to being issued the temporary license, the temporary license application shall be  
15 discontinued.

16 (e) Non-regular license holder. A non-regular license holder that wishes to conduct a bingo  
17 occasion must file a complete application for a temporary license on a form prescribed by the  
18 Commission at least 30 calendar days prior to the bingo occasion.

19 (1) If an organization has never received a temporary license or 3 years have elapsed since  
20 the organization last held a temporary bingo occasion, the organization must submit a Texas  
21 Application for Temporary Bingo Occasions for Non-Licensed Organization - Section 2.

(2) Organizations who have held a temporary license occasion in the past three years may submit Texas Application for a Temporary Bingo Occasions for Non-Licensed Organization - Section 1 to apply for a temporary license.

§402.413. Military Service Members, Military Veterans, and Military Spouses.

(a) The following terms used in this section are defined in §55.001 of the Occupations Code as follows:

(1) "Active duty" means current full-time military service in the armed forces of the United States or active duty military service as a member of the Texas military forces, as defined by §437.001, Government Code, or similar military service of another state.

(2) "Armed forces of the United States" means the army, navy, air force, coast guard, or marine corps of the United States or a reserve unit of one of those branches of the armed forces.

(3) "Military service member" means a person who is on active duty.

(4) "Military spouse" means a person who is married to a military service member.

(5) "Military veteran" means a person who has served on active duty and who was discharged or released from active duty.

(b) As soon as practicable after a military service member, military veteran, or military spouse applies in his or her individual capacity for a commercial lessor license, distributor license, manufacturer license, or listing on the bingo worker registry, the Commission will process the application and, if warranted, issue the license or list the applicant on the bingo worker registry. A military service member or military veteran must provide the Commission with definitive proof of his or her current or prior military service. A military spouse must provide the Commission with:

(1) definitive proof of his or her spouse's current military service; and

1 (2) his or her official marriage certificate or other definitive proof of his or her marriage to  
2 a military service member.

3 (c) The Commission will waive the license fee for a military service member or military veteran  
4 that applies in his or her individual capacity for a commercial lessor license, distributor license, or  
5 manufacturer license. The applicant must provide the Commission with definitive proof of the  
6 applicant's current or prior military service.

7 (d) The Commission will waive the license fee for a military spouse that applies in his or her  
8 individual capacity for a commercial lessor license, distributor license, or manufacturer license,  
9 provided that the applicant holds a current license issued by another state or jurisdiction that is  
10 substantially equivalent to the license for which the applicant is applying. The applicant must  
11 provide the Commission with:

12 (1) definitive proof of his or her spouse's current military service;

13 (2) his or her official marriage certificate or other definitive proof of his or her marriage to  
14 a military service member; and

15 (3) a photocopy of his or her current out-of-state license that is substantially equivalent to  
16 the license for which the applicant is applying.

17 (e) An individual licensed in his or her individual capacity as a commercial lessor, distributor, or  
18 manufacturer is exempt from the late license renewal fee provided for in §402.411(e) of this  
19 chapter if the individual can demonstrate, to the satisfaction of the Commission, that the individual  
20 failed to renew his or her license in a timely manner because the individual was serving as a  
21 military service member.

22 (f) A military spouse may engage in any activity for which a license or bingo worker registration  
23 is required without obtaining the applicable license or registration if the spouse is currently



licensed in good standing by another jurisdiction that has licensing requirements that are substantially equivalent to the requirements for licensure in Texas. Before engaging in the activity, the military spouse must notify the Commission of their intent to conduct the activity in this state and must submit proof of their residency in this state along with a copy of their military identification card. Upon receipt, the Commission will verify that the military spouse is currently licensed in good standing in another state that has licensing requirements that are substantially equivalent to the requirements in Texas. If so, the Commission shall authorize the military spouse to engage in the activity. The authorization is effective only for the period during which the military service member to whom the military spouse is married is stationed at a military installation in this state, not to exceed three years. The authorization may not be renewed. The military spouse shall comply with all other laws and regulations applicable to the business or occupation in this state.

§402.422. Amendment to a Regular License to Conduct Charitable Bingo.

(a) A licensed authorized organization must file a form prescribed by the Commission to amend its licensed:

- (1) playing days;
- (2) playing times;
- (3) playing location;
- (4) bingo chairperson;
- (5) organization name; or
- (6) primary business office.

(b) Playing days or playing times.

1 (1) An organization amending its playing day(s) or playing time(s) must specify on the  
2 form each playing occasion day and time that the organization intends to conduct bingo at the  
3 location.

4 (2) The playing day(s) or time(s) specified on the form may not:

5 (A) conflict with the playing day(s) or time(s) of any other application or license  
6 issued for that location;

7 (B) exceed the maximum number of bingo occasions per day allowed under Texas  
8 Occupations Code, §2001.419(c) and (d); or

9 (C) exceed three occasions during a calendar week or six ~~four~~ hours per occasion.

10 (c) Playing location.

11 (1) An organization amending its playing location must return:

12 (A) its current bingo license if available, or a certified statement signed by the bingo  
13 chairperson indicating that the license is not available, unless the license is currently in  
14 administrative hold status or its renewal application is pending; and

15 (B) a copy of the meeting minutes recording that the organization voted to move  
16 the bingo playing location and indicating the exact playing location address and name of the  
17 location, if applicable.

18 (2) A licensee shall display a copy of its license at the current playing location if the license  
19 was surrendered upon application for an amendment.

20 (d) Organization name. An organization amending its organization name must submit a copy of  
21 the following:

22 (1) all amended organizing instruments reflecting the name change;

1 (2) written notice sent to the Internal Revenue Service updating the organization's record  
2 if the organization is required to maintain a 501(c) exemption;

3 (3) meeting minutes recording that the organization voted to change its name; and

4 (4) letter approving the name change from the parent organization, if applicable.

5 (e) Primary business office location.

6 (1) An organization may not relocate its primary business office to a different county solely  
7 for the purpose of relocating its bingo playing location. If the new location is not adjacent to the  
8 current county of its primary business office, the organization must have at least 20 percent of its  
9 members' residences located in the county to which the organization is moving.

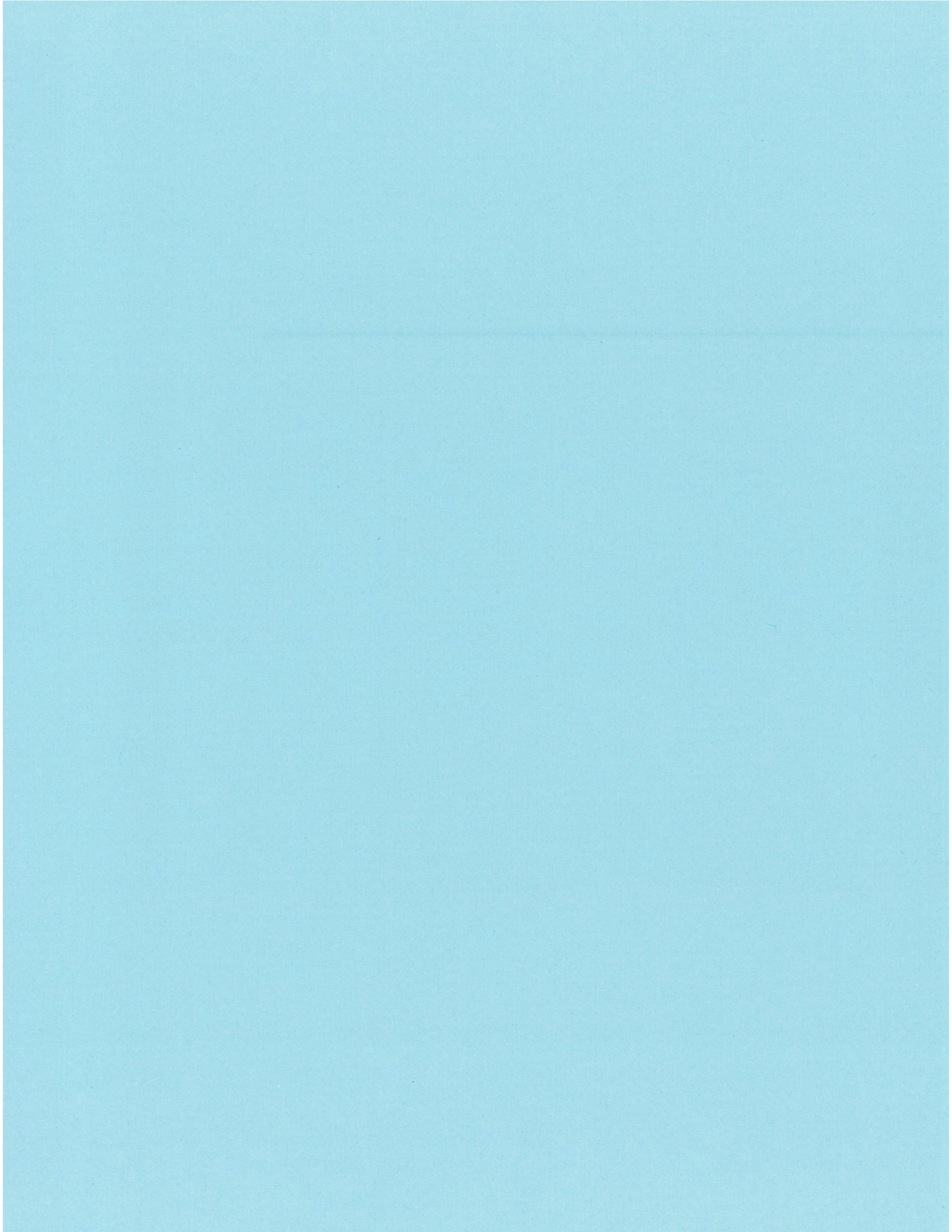
10 (2) An organization changing its primary business office location must submit a copy of  
11 the following:

12 (A) meeting minutes recording that the licensed authorized organization voted to  
13 move its primary business office to the proposed location and the reason for the move;

14 (B) if moving to a non-adjacent county, the licensed authorized organization's  
15 membership list showing names and county of residence with at least 20 percent of the members'  
16 residences located in the non-adjacent county to which the organization is moving; and

17 (C) letter approving the organization's primary business office relocation to another  
18 county from the parent organization, if applicable.

19 (f) Meeting minutes submitted in accordance with subsections (c)(1)(B), (d)(3), and (e)(2)(A) of  
20 this section must be signed and certified as true and correct by an officer of the organization.





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

The Commission requests comments on the proposed amendments from any interested person. Comments may be submitted to Kyle Wolfe, 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](mailto:legal.input@lottery.state.tx.us). Comments must be received within 30 days after publication of this proposal in the *Texas Register* to be considered.

These amendments are 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.

*§401.153. Qualifications for License.*

(a) (No change.)

(b) The director may grant or deny an application for a license under this subchapter based on any one or more factors listed in subsection (a) of this section. In addition, the director shall deny an application for a license under this subchapter upon a finding that the applicant:

(1) has been convicted of a felony, criminal fraud, gambling or a gambling-related offense, or a misdemeanor involving moral turpitude, if less than 10 years has elapsed since the termination of the sentence, parole, mandatory supervision, or probation served for the offense;

(2) is or has been a professional gambler. A "professional gambler" is a person whose profession is, or whose major source of income derives from, playing games of chance for profit;

(3) has been finally determined to be[?]

[(A)] delinquent in the payment of a tax or other money collected by the comptroller, the Texas Workforce Commission, or the Texas Alcoholic Beverage Commission;

[(B)] in default on a loan made under Chapter 52, Education Code[?]

[(C)] in default on a loan guaranteed under Chapter 57, Education Code; or]

[(D)] any reasons listed in Chapter 232, Family Code as cause for license suspension[?]

(4) is married to [has a spouse, child, brother, sister or parent residing as a member of the same household in the principal place of residence of] a person described in paragraph (1), (2), or (3) of this subsection;

(5) has violated the Act or a rule adopted by the commission in furtherance of the State Lottery Act;

(6) is not an individual, and an individual described in one or more of paragraphs (1) - (5) of this subsection:

(A) is an officer or director of the applicant;

(B) holds more than 10% of any class of issued and outstanding stock in the applicant;

(C) holds an equitable ownership interest greater than 10% in the applicant;

(D) is a creditor of the applicant to the extent of more than 10% of the applicant's outstanding debt at any time after the application is filed but before the director acts to grant or deny the license;

(E) is the owner or lessee of a business that the applicant conducts or through which the applicant will conduct a ticket sales agency;

(F) shares or will share in the profits, other than stock dividends, of the applicant or sales agent;

(G) participates in managing the affairs of the applicant;

or

(H) is an employee of the applicant who is or will be involved in selling tickets or handling money from the sale of tickets;

(7) provided false or misleading information on the application form, or failed to provide information required as part of the application;

(8) failed to provide fingerprint identification for individuals for which such identification is requested in a form acceptable to the division following the division's request for such identification;

(9) has previously had a sales agent's license revoked, unless the director is satisfied the person will comply with the State Lottery Act and the rules under this chapter[? or]

(10) failed to certify to the director the applicant's compliance with the federal Americans With Disabilities Act[?]; or

(11) is the subject of a license suspension or decision issued under Chapter 232, Family Code.

(c) - (e) (No change.)

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, 2019.

TRD-201902566

Bob Biard

General Counsel

Texas Lottery Commission

Earliest possible date of adoption: September 22, 2019

For further information, please call: (512) 344-5392



## CHAPTER 402. CHARITABLE BINGO OPERATIONS DIVISION SUBCHAPTER D. LICENSING REQUIREMENTS

### 16 TAC §§402.401, 402.413, 402.422

The Texas Lottery Commission (Commission) proposes amendments to 16 TAC §402.401 (Temporary License), §402.413 (Military Service Members, Military Veterans, and Military Spouses), and §402.422 (Amendment to a Regular License to Conduct Charitable Bingo). The purpose of the proposed amendments is to implement statutory changes required by newly-enacted House Bill 882 and Senate Bill 1200 from the Regular Session of the 86th Texas Legislature. The proposed amendments extend the maximum length of time for a bingo occasion from four to six hours and create a process for recognition of out-state-licenses held by military spouses residing in Texas.

Kathy Pyka, Controller, has determined that for each year of the first five years the amendments will be in effect, there will be no fiscal impact for state or local governments as a result of the proposed amendments that is not attributable to the newly-enacted legislation. There will be no adverse effect on small businesses or rural communities, micro businesses, or local or state employment. There will be no additional economic cost to persons required to comply with the amendments, as proposed. Furthermore, an Economic Impact Statement and Regulatory Flexibility Analysis is not required because the proposed amendments will not have an adverse economic effect on small businesses or rural communities as defined in Texas Government Code §2006.001(1-a) and (2).

Michael P. Farrell, Director of the Charitable Bingo Operations Division, has determined that for each year of the first five years the proposed amendments will be in effect, the anticipated public benefit will be to provide organizations with more time and flexibility in conducting bingo, to increase player convenience, to make it easier for military spouses to work in the bingo industry in Texas, and to align the Commission's rules with the newly-enacted statutory language.

Pursuant to Texas Government Code §2001.0221, the Commission provides the following Government Growth Impact Statement for the proposed rule. For each year of the first five years the proposed amendments will be in effect, Kathy Pyka, Controller, has determined the following:

- (1) The proposed amendments do not create or eliminate a government program.
- (2) Implementation of the proposed amendments does not require the creation of new employee positions or the elimination of existing employee positions.
- (3) Implementation of the proposed amendments does not require an increase or decrease in future legislative appropriations to the Commission.
- (4) The proposed amendments do not require an increase or decrease in fees paid to the Commission.
- (5) The proposed amendments do not create a new regulation.
- (6) The proposed amendments do not expand or limit an existing regulation.
- (7) The proposed amendments do not increase or decrease the number of individuals subject to the rule's applicability.
- (8) The proposed amendments do not positively or adversely affect this state's economy.

The Commission requests comments on the proposed amendments from any interested person. Comments may be submitted to Tyler Vance, 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 thirty (30) days after publication of this proposal in the *Texas Register* in order to be considered. The Commission also will hold a public hearing to receive comments on this proposal at 10:00 a.m. on September 4, 2019, at 611 E. 6th Street, Austin, Texas 78701.

The amendments are proposed under Texas Occupations Code §2001.054, which authorizes the Commission to adopt rules to enforce and administer the Bingo Enabling Act; Texas Government Code §467.102, which authorizes the Commission to adopt rules for the laws under the Commission's jurisdiction; and Section 3 of HB 882 from the Regular Session of the 86th Texas Legislature, which requires the Commission to adopt rules for its implementation.

tion 3 of HB 882 from the Regular Session of the 86th Texas Legislature, which requires the Commission to adopt rules for its implementation.

This proposal is intended to implement Texas Occupations Code, Chapter 2001. No other statutes, articles, or codes are affected by the proposed rules.

*§402.401. Temporary License.*

(a) (No change.)

(b) General.

(1) Requirements. The Commission may not issue a temporary license if the applicant has failed to file a required report, failed to pay a bingo liability, has not distributed the proceeds calculated on the quarterly report for a charitable purpose, or has a regular license in administrative hold.

(2) Duration. A temporary license is valid for no more than six [four] consecutive hours during any day.

(3) - (5) (No change.)

(c) - (e) (No change.)

*§402.413. Military Service Members, Military Veterans, and Military Spouses.*

(a) - (e) (No change.)

(f) A military spouse may engage in any activity for which a license or bingo worker registration is required without obtaining the applicable license or registration if the spouse is currently licensed in good standing by another jurisdiction that has licensing requirements that are substantially equivalent to the requirements for licensure in Texas. Before engaging in the activity, the military spouse must notify the Commission of their intent to conduct the activity in this state and must submit proof of their residency in this state along with a copy of their military identification card. Upon receipt, the Commission will verify that the military spouse is currently licensed in good standing in another state that has licensing requirements that are substantially equivalent to the requirements in Texas. If so, the Commission shall authorize the military spouse to engage in the activity. The authorization is effective only for the period during which the military service member to whom the military spouse is married is stationed at a military installation in this state, not to exceed three years. The authorization may not be renewed. The military spouse shall comply with all other laws and regulations applicable to the business or occupation in this state.

*§402.422. Amendment to a Regular License to Conduct Charitable Bingo.*

(a) (No change.)

(b) Playing days or playing times.

(1) An organization amending its playing day(s) or playing time(s) must specify on the form each playing occasion day and time that the organization intends to conduct bingo at the location.

(2) The playing day(s) or time(s) specified on the form may not:

(A) conflict with the playing day(s) or time(s) of any other application or license issued for that location;

(B) exceed the maximum number of bingo occasions per day allowed under Texas Occupations Code, §2001.419(c) and (d); or

(C) exceed three occasions during a calendar week or six [four] hours per occasion.

(c) - (f) (No change.)

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 7, 2019.

TRD-201902550

Bob Biard

General Counsel

Texas Lottery Commission

Earliest possible date of adoption: September 22, 2019

For further information, please call: (512) 344-5392



## CHAPTER 403. GENERAL ADMINISTRATION

### 16 TAC §403.101

The Texas Lottery Commission (Commission) proposes amendments to 16 TAC §403.101 (Open Records). The purpose of the amendments is to implement Texas Government Code §552.275 (Requests That Require Large Amounts of Employee or Personnel Time) by establishing a reasonable limit of 36 hours per fiscal year as the maximum amount of time Commission personnel are required to spend producing public information for inspection or duplication by a requestor, or providing copies of public information to a requestor, without the Commission recovering costs attributable to that personnel time. The amendments also clarify how to submit public information requests to the Commission and make other clarifying changes to the rule.

Kathy Pyka, Controller, has determined that for each year of the first five years the amendments will be in effect, there will be no significant fiscal impact for state or local governments as a result of the proposed amendments. There will be no adverse effect on small businesses or rural communities, micro businesses, or local or state employment. There could be an additional economic cost to persons required to comply with the amendments as proposed, but this amount cannot be quantified. Furthermore, an Economic Impact Statement and Regulatory Flexibility Analysis is not required because the proposed amendments will not have an adverse economic effect on small businesses or rural communities as defined in Texas Government Code §2006.001(1-a) and (2).

Bob Biard, General Counsel, has determined that for each year of the first five years the proposed amendments will be in effect, the public benefit expected is increased transparency in Commission operations resulting from more prompt, efficient, and cost-effective responses to all members of the public requesting Commission information.

Pursuant to Texas Government Code §2001.0221, the Commission provides the following Government Growth Impact Statement for the proposed amendments. For each year of the first five years the proposed amendments will be in effect, Kathy Pyka, Controller, has determined the following:

- (1) The proposed rule amendments do not create or eliminate a government program.
- (2) Implementation of the proposed rule amendments does not require the creation of new employee positions or the elimination of existing employee positions.

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

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

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

(6) The proposal amends, but does not expand or limit, the existing Commission rule governing open records requests, as authorized by Texas Government Code §552.275.

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

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

The Commission requests comments on the proposed amendments from any interested person. Comments may be submitted to Deanne Rienstra, Special 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](mailto: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.

These amendments are proposed under the authority of Texas Government Code §552.230, which authorizes a state agency to promulgate reasonable rules of procedure under which public information may be inspected and copied efficiently, safely, and without delay; Texas Government Code §2001.004(1), which requires state agencies to adopt rules of practice; and Texas Government Code §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 552.

#### *§403.101. Open Records.*

(a) Charges for Copies of Public Records. The charges to any person requesting reproductions of any readily available record of the Texas Lottery Commission will be the charges established by rule by the Office of the Attorney General in accordance with the Texas Government Code Chapter 552, Subchapter F.

(1) Pursuant to Texas Government Code §552.275, the Commission has established a limit of 36 hours per fiscal year as the maximum amount of time agency personnel are required to spend producing public information for inspection or duplication by a requestor, or providing copies of public information to a requestor, without the agency recovering costs attributable to that personnel time.

(2) The agency will provide each requestor a written statement of the amount of personnel time spent complying with each request for public information from the requestor and the cumulative amount of time spent complying with requests for public information from the requestor during the fiscal year. Subject to the provisions of §552.275, when the 36-hour limit is met or exceeded, the agency will require a requestor to pay costs attributable to cost of materials, overhead, and personnel time necessary to comply with the request.

(b) The agency may furnish public records without charge or at a reduced charge if the agency determines that waiver or reduction of the fees is in the public interest.