




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 proposal, on amendments to 16 TAC §§ 402.200 (General Restrictions on the Conduct of Bingo), 402.203 (Unit Accounting), 402.300 (Pull-Tab Bingo), 402.402 (Registry of Bingo Workers), 402.500 (General Records Requirements), 402.503 (Bingo Gift Certificates), 402.511 (Required Inventory Records), 402.702 (Disqualifying Convictions), and 402.706 (Schedule of Sanctions).

Approved

Denied

Attached are draft rule proposals prepared for submission to the *Texas Register* for amendments to the above-referenced rules. The purpose of the proposed amendments is to implement statutory changes required by newly-enacted House Bill 914 (HB 914) and House Bill 1342 (HB 1342) from the Regular Session of the 86th Texas Legislature.

The proposed amendments implementing HB 914 extend the length of time a resident provisional bingo worker may continue working for a licensed organization pending approval of his/her application from 14 to 30 days. The proposed amendments allow for the sale of bingo cards, pull-tabs, and card-minders up to one hour before a bingo occasion, and for a single accounting of pull-tab sales that occur over consecutive occasions conducted by an organization within one day. The proposed amendments also extend the deadline for organizations to deposit proceeds into their bingo account from 2 days to 3 days. This extension, however, does not apply to units, which are still statutorily required to deposit proceeds within 2 days. Additionally, the proposed amendments eliminate the prize fee for merchandise prizes and define a "cash bingo prize" to include prepaid cards and other negotiable instruments. The proposed amendments require organizations that conduct bingo in more than one location to document the city and county where each occasion occurs along with prizes awarded and prize fees allotted.

Lastly, HB 1342 amended Texas Occupations Code Chapter 53, which applies to applicants for occupational licenses with criminal backgrounds. The bill eliminates the consideration of all convictions that are not directly-related to the occupation and it creates a new set of mitigating factors for agencies to consider when an applicant has a directly-related conviction. The proposed amendments will bring the Commission's rules into compliance with the new law.

The submission prepared for the *Texas Register* includes a notice of public hearing to be held on the proposed amendments at 10:00 a.m. on Wednesday, November 6, 2019.

Recommendation: Staff recommends the Commission initiate the rulemaking process by publishing the attached proposed rule amendments in the *Texas Register* in order to receive public comments for a period of 30 days.

1 The Texas Lottery Commission (Commission) proposes amendments to 16 TAC
2 §§ 402.200 (General Restrictions on the Conduct of Bingo), 402.203 (Unit Accounting), 402.300
3 (Pull-Tab Bingo), 402.402 (Registry of Bingo Workers), 402.500 (General Records
4 Requirements), 402.503 (Bingo Gift Certificates), 402.511 (Required Inventory Records), 402.702
5 (Disqualifying Convictions), and 402.706 (Schedule of Sanctions). The purpose of the proposed
6 amendments is to implement statutory changes required by newly-enacted House Bill 914 (HB
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9 provisional bingo worker may continue working for a licensed organization pending approval of
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14 bingo account from 2 days to 3 days. This extension, however, does not apply to units, which are
15 still statutorily required to deposit proceeds within 2 days. Additionally, the proposed amendments
16 eliminate the prize fee for merchandise prizes and define a “cash bingo prize” to include prepaid
17 cards and other negotiable instruments. The proposed amendments require organizations that
18 conduct bingo in more than one location to document the city and county where each occasion
19 occurs along with prizes awarded and prize fees allotted.

20 Lastly, HB 1342 amended Texas Occupations Code Chapter 53, which applies to
21 applicants for occupational licenses with criminal backgrounds. The bill eliminates the
22 consideration of all convictions that are not directly-related to the occupation and it creates a new
23 set of mitigating factors for agencies to consider when an applicant has a directly-related

1 conviction. The proposed amendments will bring the Commission's rules into compliance with
2 the new law.

3 Kathy Pyka, Controller, has determined that for each year of the first five years the
4 amendments will be in effect, there will be no fiscal impact for state or local governments as a
5 result of the proposed amendments that is not attributable to the newly-enacted legislation. There
6 will be no adverse effect on small businesses or rural communities, micro businesses, or local or
7 state employment. There will be no additional economic cost to persons required to comply with
8 the amendments as proposed. Furthermore, an Economic Impact Statement and Regulatory
9 Flexibility Analysis is not required because the proposed amendments will not have an adverse
10 economic effect on small businesses or rural communities as defined in Texas Government Code
11 §2006.001(1-a) and (2).

12 Michael P. Farrell, Director of the Charitable Bingo Operations Division, has determined
13 that for each year of the first five years the proposed amendments will be in effect, the anticipated
14 public benefit will be to provide more flexibility for bingo conductors, to provide more
15 convenience to bingo players, to make more people eligible for occupational licensure, and to align
16 the Commission's rules with the newly-enacted statutory language.

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

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

21 (2) Implementation of the proposed amendments does not require the creation of new
22 employee positions or the elimination of existing employee positions.

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

3 (4) The proposed amendments allow for a decrease in prize fees paid, but do not require an
4 increase or decrease in prize fees paid to the Commission.

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

6 (6) The proposed amendments do not expand or limit an existing regulation.

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

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

10 The Commission requests comments on the proposed amendments from any interested
11 person. Comments may be submitted to Tyler Vance, Assistant General Counsel, by mail at Texas
12 Lottery Commission, P.O. Box 16630, Austin, Texas 78761-6630; by facsimile at (512) 344-5189;
13 or by email at Legal.Input@lottery.state.tx.us. Comments must be received within thirty (30) days
14 after publication of this proposal in the Texas Register in order to be considered. The Commission
15 also will hold a public hearing to receive comments on this proposal at 10:00 a.m. on November
16 6, 2019, at 611 E. 6th Street, Austin, Texas 78701.

17 The amendments are proposed under Texas Occupations Code §2001.054, which
18 authorizes the Commission to adopt rules to enforce and administer the Bingo Enabling Act; Texas
19 Government Code §467.102, which authorizes the Commission to adopt rules for the laws under
20 the Commission's jurisdiction.

21 This proposal is intended to implement Texas Occupations Code, Chapter 2001.
22 §402.200. General Restrictions on the Conduct of Bingo.

23 (a) – (e) (No change.)

(f) Merchandise prizes. Any merchandise or other non-cash prize, including bingo equipment, awarded as a bingo prize shall be valued at its current retail price. However, a non-cash prize awarded as a bingo prize may be valued at the price actually paid for that prize provided that the licensed authorized organization maintains a receipt or other documentation evidencing the actual price paid. ~~[Prize fees must be collected on merchandise and non-cash prizes.]~~

(g) "Cash bingo prize" includes cash, coins, checks, money orders, or any other financial instrument that is convertible to cash. It includes any card, ticket, certificate or similar item with a prefunded monetary value that may be used to purchase goods and services and is reduced in value when used. It does not include a card, ticket, certificate, or similar item that has no monetary value and is only redeemable one time for a specific good or service.

~~(h)~~(g) Donated bingo prizes. Only licensed authorized organizations holding a non-annual temporary license may accept or award donated bingo prizes. A donated bingo prize shall be valued at its current retail price.

~~(i)~~(h) The licensed authorized organization is responsible for ensuring the following minimum requirements are met to conduct a bingo occasion in a manner that is fair:

(1) The licensed authorized organization must make the following information available to players prior to the selling of a pull-tab bingo event ticket game:

(A) how the game will be played;

(B) the prize to be awarded if not United States currency; and

(C) how the winner(s) will be determined.

(2) Each licensed authorized organization shall conspicuously display during all bingo occasions a sign indicating the name(s) of the operator(s) authorized by the licensed authorized organization to be in charge of the occasion.

1 (A) The letters on the sign shall be no less than one inch tall.

2 (B) The sign shall inform the players that they should direct any questions or
3 complaints regarding the conduct of the bingo occasion to an operator listed on the sign.

4 (C) The sign should further state that if the player is not satisfied with the response
5 given by the operator that the player has the right to contact the Commission and file a formal
6 complaint.

7 (3) Prior to the start of a bingo occasion, the licensed authorized organization shall make a
8 written game schedule available to all patrons. The game schedule must contain the following
9 information:

10 (A) all regularly scheduled games to be played;

11 (B) the order in which the games will be played;

12 (C) the patterns needed to win;

13 (D) the prize(s) to be paid for each game, including the value of any non-cash bingo
14 prizes as set in subsections (f) and (g) of this section;

15 (E) whether the prize payout is based on sales or attendance;

16 (F) the entrance fee and the number of cards associated with the entrance fee, if
17 any; and

18 (G) the price of each type of bingo card offered for sale.

19 (4) The licensed authorized organization may amend the game schedule during the bingo
20 occasion to correctly reflect any changes to game play during that occasion provided that the
21 amendments are announced to the patrons and documented, in writing, on the game schedule. If
22 not otherwise prohibited by law, the licensed authorized organization may conduct a bingo game
23 that was not originally listed on the game schedule if the game and the prize(s) to be awarded for

1 that game are announced to the patrons prior to the start of the game and documented, in writing,
2 on the game schedule. Upon completion of the bingo occasion, the final game schedule must
3 properly account for all games played during that occasion and the prizes awarded for those games.
4 The final game schedule shall be maintained pursuant to §402.500(a) of this title.

5 ~~(j)~~~~(+)~~ Reservation of bingo cards. No licensed authorized organization may reserve, or allow to
6 be reserved, any bingo card or cards for use by a bingo player.

7 ~~(k)~~~~(+)~~ Bingo worker requirements

8 (1) Bingo staff and employees may not play bingo during an occasion in which the bingo
9 staff or employees are conducting or assisting in the conduct of the bingo occasion.

10 (2) A bingo worker shall not:

11 (A) communicate verbally, or in any other manner, to the caller the number(s) or
12 symbol(s) needed by any player to win a bingo game;

13 (B) require anything of value from players, other than payment, for bingo cards,
14 electronic card minding devices, pull-tab bingo tickets, and supplies; or

15 (C) deduct any cash or portion of a winning prize other than the prize fee without
16 the player's permission.

17 ~~(l)~~~~(+)~~ Caller requirements. The caller shall:

18 (1) be located so that one or more players can:

19 (A) observe the drawing of the ball from the bingo receptacle; and

20 (B) gain the attention of the caller when the players bingo;

21 (2) be the only person to handle the bingo balls during each bingo game;

22 (3) call all numbers and make all announcements in a manner clear and audible to all of
23 the playing areas of the bingo premises;

1 (4) announce:

2 (A) prior to the start of the regular bingo game, the pattern needed to win and the
3 prize. If the prize amount is based on sales or attendance, the prize amount must be announced
4 prior to the end of the game;

5 (B) that the game, or a specific part of a multiple-part game, is closed after asking
6 at least two (2) times whether there are any other bingos and pausing to permit additional winners
7 to identify themselves;

8 (C) whether the bingo is valid and if not, that there is no valid bingo and the game
9 shall resume. The caller shall repeat the last number called before calling any more numbers; and

10 (D) the number of winners for the game.

11 (5) return the bingo balls to the bingo receptacle only upon the conclusion of the game; and

12 (6) not use cell phones, personal digital assistants (PDAs), computers, or other personal
13 electronic devices to communicate any information that could affect the outcome of the bingo
14 game with anyone during the bingo occasion.

15 (m)~~[(4)]~~ Verification.

16 (1) Winning cards. The numbers appearing on the winning card must be verified at the time
17 the winner is determined and prior to prize(s) being awarded in order to insure that the numbers
18 on the card in fact have been drawn from the receptacle.

19 (A) This verification shall be done either in the immediate presence of one or more
20 players at a table or location other than the winner's, or displayed on a TV monitor visible by all
21 of the players or by an electronic verifier system visible by all the players.

22 (B) After the caller closes the game, a winning disposable paper card or an
23 electronic representation of the card for each game shall also be posted on the licensed premises

1 where it may be viewed in detail by the players until at least 30 minutes after the completion of
2 the last bingo game of that organization's occasion.

3 (2) Numbers drawn. Any player may request a verification of the numbers drawn at the
4 time a winner is determined and a verification of the balls remaining in the receptacle and not
5 drawn.

6 (A) Verification shall take place in the immediate presence of the operator, one or
7 more players other than the winner, and player requesting the verification.

8 (B) Availability of this additional verification, done as a request from players, shall
9 be made known either verbally prior to the bingo occasion, printed on the playing schedule, or
10 included with the bingo house rules.

11 ~~(n)~~ Each licensed authorized organization must establish and adhere to written procedures
12 that address disputes. Those procedures shall be made available to the players upon request.

13 ~~(o)~~ The total aggregate amount of prizes awarded for regular bingo games during a single
14 bingo occasion may not exceed \$2500. This subsection does not apply to:

15 (1) a pull-tab bingo game; or

16 (2) a prize of \$50 or less that is actually awarded in an individual game of regular bingo.

17 ~~(p)~~ For purposes of §2001.419 of the Occupations Code, a bingo occasion will be considered
18 to have occurred on the date on which the occasion began.

19 §402.203. Unit Accounting.

20 (a) – (h) (No change.)

21 (i) Unit Bingo Account.

22 (1) The unit must establish and maintain one checking account designated as the "bingo
23 account." The unit must maintain the "bingo account" in compliance with the same provisions of

1 the Bingo Enabling Act and Charitable Bingo Administrative Rules applicable to a licensed
2 authorized organization.

3 (2) The face of the checks must list the name of the unit, the words "Bingo Account", and
4 the unit's identification number.

5 (3) Only the following may be deposited into the unit's bingo account:

6 (A) proceeds from the conduct of bingo;

7 (B) rent payments received by a unit member that is also a licensed commercial
8 lessor; and

9 (C) funds transferred by new members or funds transferred in accordance with
10 §402.202 of this subchapter (relating to Transfer of Funds).

11 (4) A separate deposit must be made for each bingo occasion conducted. Additionally, all
12 sales and prizes must be recorded in accordance with the rules. ~~[on the records for the occasion on~~
13 ~~which they occurred.]~~

14 (5) All prize fees must be paid from the unit bingo account.

15 (j) – (k) (No change.)

16 §402.300. Pull-Tab Bingo.

17 (a) Definitions. The following words and terms, shall have the following meanings, unless the
18 context clearly indicates otherwise:

19 (1) Bingo Ball Draw--A pulling of a bingo ball(s) to determine the winner of an event ticket
20 by either the number or color on the ball(s).

21 (2) Deal--A separate and specific game of pull-tab bingo tickets of the same serial number
22 and form number.

23 (3) Face--The side of a pull-tab bingo ticket, which displays the artwork of a specific game.

1 (4) Flare--A poster or placard that must display:

2 (A) a form number of a specific pull-tab bingo game;

3 (B) the name of the pull-tab bingo game;

4 (C) the total card count of the pull-tab bingo game;

5 (D) the cost per pull-tab bingo ticket;

6 (E) the number of prizes to be awarded and the corresponding prize amounts of the
7 pull-tab bingo game; and

8 (F) the name of the manufacturer or trademark.

9 (5) Form Number--The unique identification number assigned by the manufacturer to a
10 specific pull-tab bingo game. A form number may be numeric, alpha, or a combination of numeric
11 and alpha characters.

12 (6) High Tier--The two highest paying prize amounts as designated on the pull-tab bingo
13 ticket and on the game's flare.

14 (7) Last Sale--The purchaser of the last pull-tab bingo ticket(s) sold in a deal with this
15 feature is awarded a prize or a registration for the opportunity to win a prize.

16 (8) Merchandise--Any non-cash item(s), including bingo equipment, provided to a licensed
17 authorized organization that is used as a prize.

18 (9) Pay-Out--The total sum of all possible prize amounts in a pull-tab bingo game.

19 (10) Payout Schedule--A printed schedule prepared by the manufacturer that displays:

20 (A) the name of the pull-tab bingo game;

21 (B) the form number of the pull-tab bingo game;

22 (C) the total card count of the pull-tab bingo game;

23 (D) the cost per pull-tab bingo ticket;

(E) the number of prizes to be awarded and the corresponding prize amount or jackpot for each category of the pull-tab bingo game;

(F) the number of winners for each category of prize;

(G) the profit of the pull-tab bingo game;

(H) the percentage of payout or the percentage of profit of the pull-tab bingo game;

and

(I) the payout(s) of the pull-tab bingo game.

(11) Payout Structure--The printed information that appears on a pull-tab bingo ticket that shows the winnable prize amounts, the winning patterns required to win a prize, and the number of winners for each category of prize.

(12) Prize--An award of collectible items, merchandise, cash, bonus pull-tabs, and additional pull-tab bingo tickets, individually or in any combination.

(13) Prize Amount--The value of cash and/or merchandise which is awarded as a prize, as valued under §402.200(f) of this chapter. A collectable item is considered merchandise for determining allowable prize amounts.

(14) Serial Number--The unique identification number assigned by the manufacturer identifying a specific deal of pull-tab bingo tickets. A serial number may be numeric, alpha, or a combination of numeric and alpha characters.

(15) Subset--A part of a deal that is played as a game to itself or combined with more subsets and played as a game. Each subset may be designed to have:

(A) a designated payout; or

(B) a series of designated payouts. Subsets must be of the same form and serial number to have a combined designated payout or a series of designated payouts.

1 (16) Symbol--A graphic representation of an object other than a numeric or alpha character.

2 (17) Video Confirmation--A graphic and dynamic representation of the outcome of a bingo
3 event ticket that will have no effect on the result of the winning or losing event ticket.

4 (18) Wheels--Devices that determine event ticket winner(s) by a spin of a wheel.

5 (19) "Consecutive bingo occasions within one day" shall mean more than one bingo
6 occasion conducted by an organization within a 24-hour period without any intervening occasions
7 conducted by another organization, commencing at the start of the first occasion.

8 (b) – (d) (No change.)

9 (e) Sales and redemption.

10 (1) Instant pull-tab bingo tickets from a single deal may be sold by a licensed authorized
11 organization over multiple occasions. A licensed authorized organization may bundle pull-tab
12 bingo tickets of different form numbers and may sell those bundled pull-tab tickets during their
13 licensed times. Pull-tab tickets may be sold up to one hour before an occasion, but they may only
14 be redeemed during an occasion. ~~[A winning instant pull-tab bingo ticket must be presented for~~
15 ~~payment during the licensed authorized organization's bingo occasion(s) at which the instant pull-~~
16 ~~tab bingo ticket is available for sale.]~~

17 (2) Except as provided by paragraph (3) or (4) of this subsection, the event used to
18 determine the winner(s) of an event pull-tab bingo ticket deal must occur during the same bingo
19 occasion at which the first event pull-tab bingo ticket from that deal was sold. A winning event
20 pull-tab ticket must be presented for payment during the same bingo occasion at which the event
21 occurred.

22 (3) For a licensed authorized organization that conducts bingo through a unit created and
23 operated under Texas Occupations Code, Subchapter I-1, any organization in the unit may sell or

redeem event pull-tab tickets from a deal on the premises specified in their bingo licenses and during such licensed time on consecutive occasions within one 24-hour period.

(4) For a licensed authorized organization that conducts bingo on consecutive occasions within one day ~~[24-hour period]~~, the organization may sell or redeem event pull-tab tickets from a deal during either occasion and may account for and report all of the pull-tab bingo ticket sales and prizes for the occasions as sales and prizes for the final occasion.

(5) Licensed authorized organizations may not display or sell any pull-tab bingo ticket which has in any manner been marked, defaced, tampered with, or which otherwise may deceive the public or affect a person's chances of winning.

(6) A licensed authorized organization may not withdraw a deal of instant pull-tab bingo tickets from play until the entire deal is completely sold out or all winning instant pull-tab bingo tickets of \$25.00 prize winnings or more have been redeemed, or the bingo occasion ends.

(7) A licensed authorized organization may not commingle different serial numbers of the same form number of pull-tab bingo tickets.

(8) A winning instant pull-tab bingo ticket must be presented for payment during the licensed authorized organization's bingo occasion(s) at which the instant pull-tab bingo ticket is available for sale. ~~[A licensed authorized organization may bundle pull-tab bingo tickets of different form numbers and may sell these bundled pull-tab bingo tickets during their licensed times.]~~

(9) The licensed authorized organization's gross receipts from the sale of pull-tab bingo tickets must be included in the reported total gross receipts for the organization, except that an organization that conducts consecutive bingo occasions during one day may account for and report all of the pull-tab bingo ticket sales for the occasions as sales for the final occasion. An

organization that chooses to account for pull-tab bingo ticket sales for consecutive bingo occasions during one day as sales for the final occasion must also account for pull-tab bingo ticket prizes awarded over those occasions as prizes awarded for the final occasion. Each deal of pull-tab bingo tickets must be accounted for in sales, prizes or unsold cards.

(10) A licensed authorized organization may use video confirmation to display the results of an event ticket pull-tab bingo game(s). Video confirmation will have no effect on the play or results of any ticket or game.

(11) A licensed authorized organization must sell the pull-tab ticket for the price printed on the pull-tab ticket.

(12) Immediately upon payment of a winning pull-tab ticket of \$25.00 or more, the licensed authorized organization must punch a hole with a standard hole punch through or otherwise mark or deface that winning pull-tab bingo ticket.

(f) (No change.)

(g) Records.

(1) Any licensed authorized organization selling pull-tab bingo tickets must maintain a purchase log showing the date of the purchase, the form number and corresponding serial number of the purchased pull-tab bingo tickets.

(2) Licensed authorized organizations must show the sale of pull-tab bingo tickets, prizes that were paid and the form number and serial number of the pull-tab bingo tickets on the occasion cash report, except that an organization that conducts consecutive bingo occasions during one day may account for and report all of the pull-tab bingo ticket sales for the occasions as sales for the final occasion. An organization that chooses to account for pull-tab bingo ticket sales for consecutive bingo occasions during one day as sales for the final occasion must also account for

1 pull-tab bingo ticket prizes awarded over those occasions as prizes awarded for the final occasion.

2 The aggregate total sales for the licensed authorized organization must be recorded on the cash
3 register or point of sale station.

4 (3) Licensed authorized organizations must maintain a perpetual inventory of all pull-tab
5 bingo games. They must account for all sold and unsold pull-tab bingo tickets and pull-tab bingo
6 tickets designated for destruction. The licensed authorized organization will be responsible for the
7 gross receipts[, and prizes [~~and prize fee~~] associated with the unaccounted for pull-tab bingo
8 tickets.

9 (4) As long as a specific pull-tab bingo game serial number is in play, all records, reports,
10 receipts and redeemed winning pull-tab bingo tickets of \$25.00 or more relating to this specific
11 pull-tab bingo game serial number must be retained on the licensed premises for examination by
12 the Commission.

13 (5) If a deal is removed from play and marked for destruction then all redeemed and unsold
14 pull-tab bingo tickets of the deal must be retained by the licensed authorized organization for a
15 period of four years from the date the deal is taken out of play or until the destruction of the deal
16 is witnessed by the Commission, its authorized representative or designee.

17 (6) Manufacturers and distributors must provide the following information on each invoice
18 and other document used in connection with a sale, return, or any type of transfer of pull-tab bingo
19 tickets:

20 (A) date of sale;

21 (B) quantity sold;

22 (C) cost per each deal of pull-tab bingo game sold;

23 (D) form number and serial number of each pull-tab bingo game's deal;

1 (E) name and address of the purchaser; and

2 (F) Texas taxpayer number of the purchaser.

3 (7) All licensed organizations must retain these records for a period of four years.

4 (h) (No change.)

5 §402.402. Registry of Bingo Workers.

6 (a) – (q) (No change.)

7 (r) A provisional employee must:

8 (1) immediately stop working:

9 (A) after 30 [14] days if the individual is not listed on the registry and is a resident
10 of this state;

11 (B) after 75 days if the individual is not listed on the registry, not a resident of this
12 state, and submitted a fingerprint card for a background investigation. If the fingerprint cards are
13 returned by the law enforcement agency as unclassifiable, the Commission will notify the
14 individual, and the individual may continue to be provisionally employed by submitting a written
15 request and new fingerprint cards within 14 days of the notification;

16 (C) if found to be ineligible on the basis of the background investigation; and

17 (2) wear an identification card while on duty with the registry applicant's name,
18 "Provisional Employment" as the unique registration number, and the submission date of the
19 registry application as the expiration date.

20 (s) (No change.)

21 §402.500. General Records Requirements.

22 (a) – (c) (No change.)

(d) An organization that conducts bingo in more than one location must record each occasion separately and include for each occasion the municipality and county where the occasion was held, the total amount of prizes awarded, and the prize fees to be distributed to the state and the local governments where the occasion was held, if applicable.

§402.503. Bingo Gift Certificates.

(a) – (b) (No change.)

(c) A bingo gift certificate may not be awarded as a prize for bingo unless the value of the certificate is paid for by the licensed authorized organization[,] and recorded as a bingo prize on the daily schedule of prizes for the bingo occasion. [~~and five percent of the value of the prize is withheld as a prize fee.~~]

(d) – (f) (No change.)

(g) Reporting Requirements:

(1) Funds from the sale of the gift certificate shall be maintained separately from the bingo funds. Such funds are not considered bingo funds until the gift certificate is redeemed for a bingo card, pull-tab bingo, or a card-minding device.

(2) Funds remaining from an expired or unredeemed gift certificate shall be disbursed equally among the participating licensed authorized organizations and deposited into each of their respective general fund accounts.

(3) When a gift certificate is redeemed, the sale of bingo paper, card-minding device, or pull-tab bingo shall be reported for that occasion. The gift certificate, when redeemed, shall be exchanged for cash from the gift certificate funds and deposited into the bingo account by the end of the third [~~second~~] business day after the bingo occasion for organizations as required by

Occupations Code^[5] §2001.451, and by the end of the second business day after the bingo occasion
for units as required by Occupations Code §2001.435.

(4) At the end of each month, the licensed authorized organizations collectively shall
reconcile the gift certificates purchased, sold, expired, redeemed, or remaining during the month
to the cash on hand.

(h) – (i) (No change.)

§402.511. Required Inventory Records.

(a) – (b) (No change.)

(c) The licensed authorized organization may be held responsible for the gross receipts^[5] and
prizes [~~and prize fees~~] associated with missing or unaccounted for disposable bingo cards and pull-
tab bingo tickets.

(d) – (e) (No change.)

§402.702. Disqualifying Convictions.

(a) – (b) (No change.)

(c) For criminal convictions that do not fall under the categories addressed in subsection (b) of this
section, the Commission may determine an applicant to be ineligible for a new or renewal license
or a registry listing based on a criminal conviction for:

(1) An offense that directly relates to the duties and responsibilities of the licensed or
registered activity;

(2) [~~An offense committed less than five years before the date of application;~~]

[~~(3)~~] An offense under §3g, Article 42.12 of the Code of Criminal Procedure; or

[~~(3)~~](4) A sexually violent offense, as defined by Article 62.001 of the Code of Criminal
Procedure.

(d) – (g) (No change.)

(h) If the Commission determines that an applicant has a criminal conviction directly related to the duties and responsibilities of the licensed occupation, the Commission shall consider the following in determining whether to take an action against the applicant:

(1) the extent and nature of the person’s past criminal activity;

(2) the age of the person when the crime was committed;

(3) the amount of time that has elapsed since the person’s last criminal activity;

(4) the conduct and work activity of the person before and after the criminal activity;

(5) evidence of the person’s rehabilitation or rehabilitative effort while incarcerated or after release;

(6) evidence of the person’s compliance with any conditions of community supervision, parole, or mandatory supervision; and

(7) other evidence of the person’s fitness, including letters of recommendation. [Pursuant to Chapter 53, Occupations Code, the Commission may consider mitigating factors in addition to criminal convictions to determine whether an applicant is eligible for a new or renewal license or registry listing. Such mitigating factors include:

(1) Veteran's status, including discharge status;

(2) Remoteness in time; e.g., if more than 10 years have elapsed since the last conviction;

(3) Absence of violation history as a current bingo licensee or bingo worker registrant over an extended period of time;

(4) Recommendations from law enforcement or community leaders; and

(5) Whether an arrest resulted in a deferred adjudication rather than a conviction.]

(i) – (l) (No change.)

1 §402.706. Schedule of Sanctions.

2 (a) – (b) (No change.)

3 (c) Unless otherwise provided by this subchapter, the terms and conditions of a settlement
4 agreement between the Commission and a person charged with violating the Bingo Enabling Act
5 and/or the Charitable Bingo Administrative Rules will be based on the Schedule of Sanctions
6 incorporated into this section.

7 Figure: 16 TAC §402.706(c)

8 **Standard Administrative Penalty Chart**

9 **Category 1**

10 **\$0 (Warning) to \$1,000 for the 1st offense, except a 1st offense for Violation No. 6 involving**
11 **gambling devices may result in up to \$1000 administrative penalty and/or license suspension,**
12 **revocation or denial, or registry removal or denial**

13 **\$0 (Warning) to \$1,000 and/or license suspension, revocation or denial, or registry removal**
14 **or denial for the 2nd offense**

No.	Violation
1	A person knowingly participated in the award of a prize to a bingo player in a manner that disregarded the random selection of numbers or symbols.
2	A person made a false statement in an application for a license.
3	A person falsified or made false entries in books and records.
4	A person conducted, promoted, or administered bingo without a license.
5	The licensee or a person designated as an agent for a unit failed to timely produce for inspection or audit any book, record, document, or other form of information requested by the Commission.
6	A person conducted or allowed a game of chance at a bingo premises during a bingo occasion, except as permitted under Occupations Code §2001.416 and 16 TAC §402.211.

- 1 **Category 2**
- 2 **\$0 (Warning) to \$600 for the 1st offense**
- 3 **\$0 (Warning) to \$800 for the 2nd offense**
- 4 **\$0 (Warning) to \$1,000 and/or license suspension, revocation or denial, or registry removal**
- 5 **or denial for the 3rd offense**

No.	Violation
7	The organization conducted bingo outside of the licensed time.
8	The organization sold <u>bingo cards, bingo card minders, or pull-tab bingo tickets</u> at an unauthorized time.
9	The organization conducted bingo at an unauthorized location.
10	The organization that is a member of a unit did not conduct its bingo games separately from the bingo games of the other members of the unit.
11	The unit with an agent designated under Section 2001.438(b) failed to immediately notify the Commission of any change in the designated agent.
12	The organization allowed a person other than a bona fide member of the licensed authorized organization to conduct, promote, or administer, or assist in conducting, promoting, or administering, bingo.
13	The organization failed to have an authorized operator present at the bingo occasion.
14	A person not listed on the registry of approved bingo workers acted as an operator, manager, cashier, usher, caller, or salesperson for an organization.
15	The organization allowed a person(s) under the age of 18 to conduct or assist in the conduct of bingo.
16	The organization or unit failed to comply with the charitable distribution requirement.
17	The organization obtained by purchase or other manner bingo equipment, devices or supplies from a person other than a licensed distributor (except as provided in Section 2001.257(b)).

- 1 **Category 3**
- 2 **\$0 (Warning) to \$400 for the 1st offense**
- 3 **\$0 (Warning) to \$600 for the 2nd offense**
- 4 **\$0 (Warning) to \$800 for the 3rd offense (Violation Nos. 18, 22, 23 – 28)**
- 5 **\$0 (Warning) to \$1,000 and/or license suspension, revocation or denial, or registry removal**
- 6 **or denial for the 3rd offense (Violation Nos. 19, 20, 21, & 24)**

No.	Violation
18	The licensee failed to report to the Commission in writing within ten (10) working days of the date of any change respecting any facts set forth in the application.
19	The licensee failed to respond, or timely respond, in writing to all relevant audit findings and recommendations in the draft audit report presented at the exit conference.
20	The organization failed to withhold prize fees.
21	The organization or unit failed to deposit in the bingo account all funds derived from the conduct of bingo, less the amount awarded as cash prizes.
22	The organization incurred or paid items of expense in connection with the conduct of a game of bingo that were not reasonable or necessary to conduct bingo.
23	Proceeds given to a person for a charitable purpose were used by the donee to pay for services rendered or materials purchased in connection with the conduct of bingo by the donor organization.
24	The net proceeds of any game of bingo and of any rental of premises for bingo were not used exclusively for charitable purpose or were used by the donee for an activity that would not constitute a charitable purpose, if the activity were conducted by the donor organization.
25	A person failed to maintain records that fully and truly record all transactions connected with the conduct of Bingo, the leasing of premises to be used for the conduct of bingo, or the manufacture, sale, or distribution of bingo supplies or equipment.

26	A commercial lessor licensed to conduct bingo, did not properly deposit in its bingo checking account all rental payments from authorized organizations conducting bingo at the location of the lessor.
27	Rent for premises used for the conduct of bingo that was paid to the lessor was not paid in a lump sum that included all expenses authorized by the Bingo Enabling Act, Section 2001.458.
28	For organizations, deposits [Deposits] were made later than the end of the <u>third</u> [second] business day following the day of the bingo occasion on which the receipts were obtained; for units, deposits were made later than the end of the second business day following the day of the bingo occasion on which the receipts were obtained. [except as provided by Subsection (b-1).]

1 **Category 4**

2 **\$0 (Warning) to \$300 for the 1st offense**

3 **\$0 (Warning) to \$450 for the 2nd offense**

4 **\$0 (Warning) to \$600 for the 3rd offense**

No.	Violation
29	The organization or unit deposited funds, other than from the conduct of bingo, in the bingo account.
30	The organization failed to clearly identify the conductor, by name exactly as it is shown on the license, on an advertisement or promotion of a bingo occasion.
31	Check(s) or slip(s) were made payable to 'cash', 'bearer', or to a fictitious payee.
32	Checks did not contain the required information.

5 **Category 5**

6 **\$0 (Warning) to \$200 for the 1st offense**

7 **\$0 (Warning) to \$300 for the 2nd offense**

- 1 **\$0 (Warning) to \$400 for the 3rd offense**

No.	Violation
33	Funds from the sale of a bingo gift certificate were not maintained separately from bingo funds until the certificate was redeemed for a bingo card, pull-tab bingo or a card-minding device.
34	The organization failed to have required information imprinted on each bingo gift certificate.

2 **Category 6**

- 3 **\$0 (Warning) to \$100 for the 1st offense**

- 4 **\$0 (Warning) to \$150 for the 2nd offense**

- 5 **\$0 (Warning) to \$200 for the 3rd offense**

No.	Violation
35	The organization failed to withdraw funds from the bingo account by preprinted, consecutively numbered checks or withdrawal slips.
36	The organization failed to keep and account for all checks, including voided checks and slips.

6 **Category 7**

- 7 **\$0 (Warning) for the 1st offense**

- 8 **\$0 (Warning) for the 2nd offense**

- 9 **\$0 (Warning) to \$1,000 for the 3rd offense**

No.	Violation
37	The organization failed to obtain, maintain, keep current and make available for review to any person upon request a copy of the Bingo Enabling Act and the Rules of the Commission.

1 (d) – (l) (No change.)

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