



INTEROFFICE MEMO

Gary Grief, Executive Director Michael P. Farrell, Charitable Bingo Operations Director

	Approved	Denied
To: J. Winston Krause, Chairman Mark A. Franz, Commissioner Robert Rivera, Commissioner Erik C. Saenz, Commissioner		
From: Bob Biard, General Counsel <i>RB</i>		
Date: October 10, 2019		
Re: Proposed Notice of Rule Review - 16 TAC Chapters 401 (Administration of State Lottery Act), 402 (Charitable Bingo Operations Division) and 403 (General Administration)		

Commission staff requests approval to publish for public comment in the *Texas Register* the attached three (3) notices of intent to review the Commission's rules at 16 Texas Administrative Code Chapters 401 (titled Administration of State Lottery Act), 402 (titled Charitable Bingo Operations Division) and 403 (titled General Administration). Texas Government Code Section 2001.039 requires a state agency to review its rules every four years. The review must include an assessment of whether the reasons for adopting each of the rules continue to exist. The names and numbers of the rules contained in Chapters 401, 402 and 403 are listed in the attached notices.

The Commission conducted its last rule review in late 2015 and early 2016, and approved orders readopting all of the rules.

At the conclusion of the current review, staff will ask the Commission to approve orders readopting each rule in Chapters 401, 402 and 403 and providing an assessment whether the reasons for initially adopting each of the rules continue to exist. Each order will state further whether there is a need to amend or repeal any of the rules. If the Commission decides to repeal or to amend a rule, staff will present a separate rulemaking proposal to provide public notice and an opportunity for public comment on the specific repeal or amendment.

Recommendation: Staff recommends that the Commission approve publication of the attached notices of intent in the *Texas Register* to receive public comment.

Attachments

The Texas Lottery Commission (Commission) files this notice of intent to review, and to consider for readoption, amendment, or repeal, the Commission's rules at Title 16 Texas Administrative Code Chapter 401, relating to Administration of State Lottery Act. The names and numbers of the rules contained in Chapter 401 are set forth below. This review is being conducted in accordance with the requirements of Texas Government Code §2001.039 (Agency Review of Existing Rules):

Subchapter A – Procurement

§401.101 – Lottery Procurement Procedures

§401.102 – Protests of the Terms of a Formal Competitive Solicitation

§401.103 – Protests of Contract Award

§401.104 – Contract Monitoring Roles and Responsibilities

§401.105 – Major Procurement Approval Authority, Responsibilities and Reporting

Subchapter B – Licensing of Sales Agents

§401.152 – Application for License

§401.153 – Qualifications for License

§401.155 – Expiration of License

§401.156 – Renewal of License

§401.157 – Provisional License

§401.158 – Suspension or Revocation of License

§401.159 – Summary Suspension of License

§401.160 – Standard Penalty Chart

Subchapter C – Practice and Procedure

§401.201 – Intent and Scope of Rules

- 1 §401.202 – Construction of Rules
- 2 §401.203 – Contested Cases
- 3 §401.205 – Initiation of a Hearing
- 4 §401.207 – Written Answer; Default Proceedings
- 5 §401.211 – Law Governing Contested Cases
- 6 §401.216 – Subpoenas, Depositions, and Orders to Allow Entry
- 7 §401.220 – Motion for Rehearing
- 8 §401.227 – Definitions
- 9 Subchapter D – Lottery Game Rules
- 10 §401.301 – General Definitions
- 11 §401.302 – Scratch Ticket Game Rules
- 12 §401.303 – Grand Prize Drawing Rule
- 13 §401.304 – Draw Game Rules (General)
- 14 §401.305 – “Lotto Texas®” Draw Game Rule
- 15 §401.306 – Video Lottery Games
- 16 §401.307 – “Pick 3” Draw Game Rule
- 17 §401.308 – “Cash Five” Draw Game Rule
- 18 §401.309 – Assignability of Prizes
- 19 §401.310 – Payment of Prize Payments Upon Death of Prize Winner
- 20 §401.312 – “Texas Two Step” Draw Game Rule
- 21 §401.313 – Promotional Drawings
- 22 §401.314 – Retailer Bonus Programs
- 23 §401.315 – “Mega Millions” Draw Game Rule

- 1 §401.316 – “Daily 4” Draw Game Rule
- 2 §401.317 – “Powerball®” Draw Game Rule
- 3 §401.318 – Withholding of Delinquent Child-Support Payments from Lump-sum and Periodic
4 Installment Payments of Lottery Winnings in Excess of Six Hundred Dollars
- 5
- 6 §401.319 – Withholding of Child-Support Payments from Periodic Installment Payments of
7 Lottery Winnings
- 8
- 9 §401.320 – “All or Nothing” Draw Game Rule
- 10 §401.321 – Instant Game Tickets Containing Non-English Words
- 11 §401.322 – “Texas Triple Chance” Draw Game Rule
- 12 §401.324 – Prize Winner Election to Remain Anonymous
- 13 Subchapter E – Retailer Rules
- 14 §401.351 – Proceeds from Ticket Sales
- 15 §401.352 – Settlement Procedures
- 16 §401.353 – Retailer Settlements, Financial Obligations, and Commissions
- 17 §401.355 – Restricted Sales
- 18 §401.357 – Texas Lottery as Retailer
- 19 §401.360 – Payment of Prizes
- 20 §401.361 – Required Purchases of Lottery Tickets
- 21 §401.362 – Retailer’s Financial Responsibility for Lottery Tickets Received and Subsequently
22 Damaged or Rendered Unsaleable, for Winning Lottery Tickets Paid and for Lottery-Related
23 Property
- 24
- 25 §401.363 – Retailer Record
- 26 §401.364 – Training
- 27 §401.366 – Compliance with All Applicable Laws
- 28 §401.368 – Lottery Ticket Vending Machines

§401.370 – Retailer’s Financial Responsibility for Lottery Tickets Received and Subsequently Stolen or Lost

§401.371 – Collection of Delinquent Obligations for Lottery Retailer Related Accounts

§401.372 – Display of License

Subchapter F – ADA Requirements

§401.401 – Definitions

§401.402 – General Requirements

§401.403 – Readily Achievable Barrier Removal

§401.404 – Priority of ADA Compliance by Lottery Licensees

§401.405 – Alternatives to Barrier Removal

§401.406 – Future Alterations to a Lottery Licensed Facility

§401.407 – Complaints Relating to Non-accessibility

§401.408 – Requests for Hearings

Subchapter G – Lottery Security

§401.501 – Lottery Security

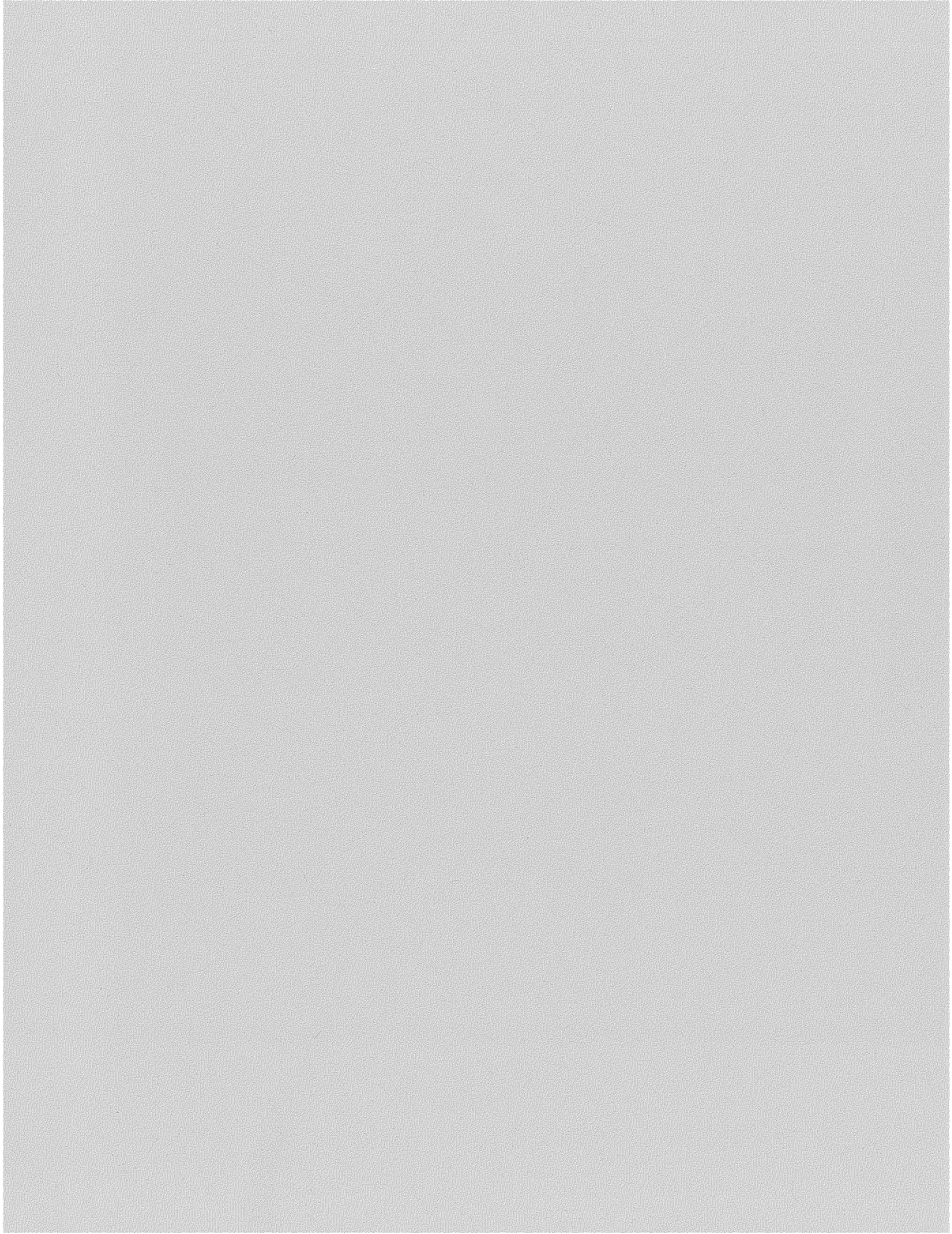
The Commission will make an assessment of whether the reasons for initially adopting each of these rules continue to exist. Each rule will be reviewed to determine whether it is obsolete, whether it reflects current legal and policy considerations, and whether it reflects current procedures of the Commission.

Written comments pertaining to this rule review may be submitted by mail to Bob Biard, General Counsel, 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*.

The deadline for comments is 30 days after publication of this notice in the *Texas Register*. Proposed changes to any of these rules as a result of the rule review will be published

1 as separate rulemaking proceedings in the Proposed Rules section of the *Texas Register* at a later
2 date. Any proposed rule changes will be open for public comment prior to final adoption or
3 repeal by the Commission, in accordance with the requirements of the Administrative Procedure
4 Act, Texas Government Code, Chapter 2001.

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1 The Texas Lottery Commission (Commission) files this notice of intent to review, and to
2 consider for readoption, amendment, or repeal, the Commission's rules at Title 16 Texas
3 Administrative Code Chapter 402 relating to Charitable Bingo Operations Division. The names
4 and numbers of the rules contained in Chapter 402 are set forth below. This review is being
5 conducted in accordance with the requirements of Texas Government Code §2001.039 (Agency
6 Review of Existing Rules):

7 Subchapter A – Administration

8 §402.100 – Definitions

9 §402.101 – Advisory Opinions

10 §402.102 – Bingo Advisory Committee

11 §402.103 – Training Program

12 §402.104 – Delinquent Obligations

13 Subchapter B – Conduct of Bingo

14 §402.200 – General Restrictions on the Conduct of Bingo

15 §402.201 – Prohibited Bingo Occasion

16 §402.202 – Transfer of Funds

17 §402.203 – Unit Accounting

18 §402.204 – Prohibited Price Fixing

19 §402.205 – Unit Agreements

20 §402.210 – House Rules

21 §402.211 – Other Games of Chance

22 §402.212 – Promotional Bingo

23 Subchapter C – Bingo Games and Equipment

- 1 §402.300 – Pull-Tab Bingo
- 2 §402.301 – Bingo Card/Paper
- 3 §402.303 – Pull-tab or Instant Bingo Dispensers
- 4 §402.321 – Card-Minding Systems—Definitions
- 5 §402.322 – Card-Minding Systems—Site System Standards
- 6 §402.323 – Card-Minding Systems—Device Standards
- 7 §402.324 – Card-Minding Systems—Approval of Card-Minding Systems
- 8 §402.325 – Card-Minding Systems—Licensed Authorized Organizations Requirements
- 9 §402.326 – Card-Minding Systems—Distributor Requirements
- 10 §402.327 – Card-Minding Systems—Security Standards
- 11 §402.328 – Card-Minding Systems—Inspections and Restrictions
- 12 Subchapter D – Licensing Requirements
- 13 §402.400 – General Licensing Provisions
- 14 §402.401 – Temporary License
- 15 §402.402 – Registry of Bingo Workers
- 16 §402.403 – Licenses for Conduct of Bingo Occasions and to Lease Bingo Premises
- 17 §402.404 – License Classes and Fees
- 18 §402.405 – Temporary Authorization
- 19 §402.406 – Bingo Chairperson
- 20 §402.407 – Unit Manager
- 21 §402.408 – Designation of Members
- 22 §402.409 – Amendment for Change of Premises or Occasions Due to Lease Termination or
- 23 Abandonment
- 24
- 25 §402.410 – Amendment of a License – General Provisions

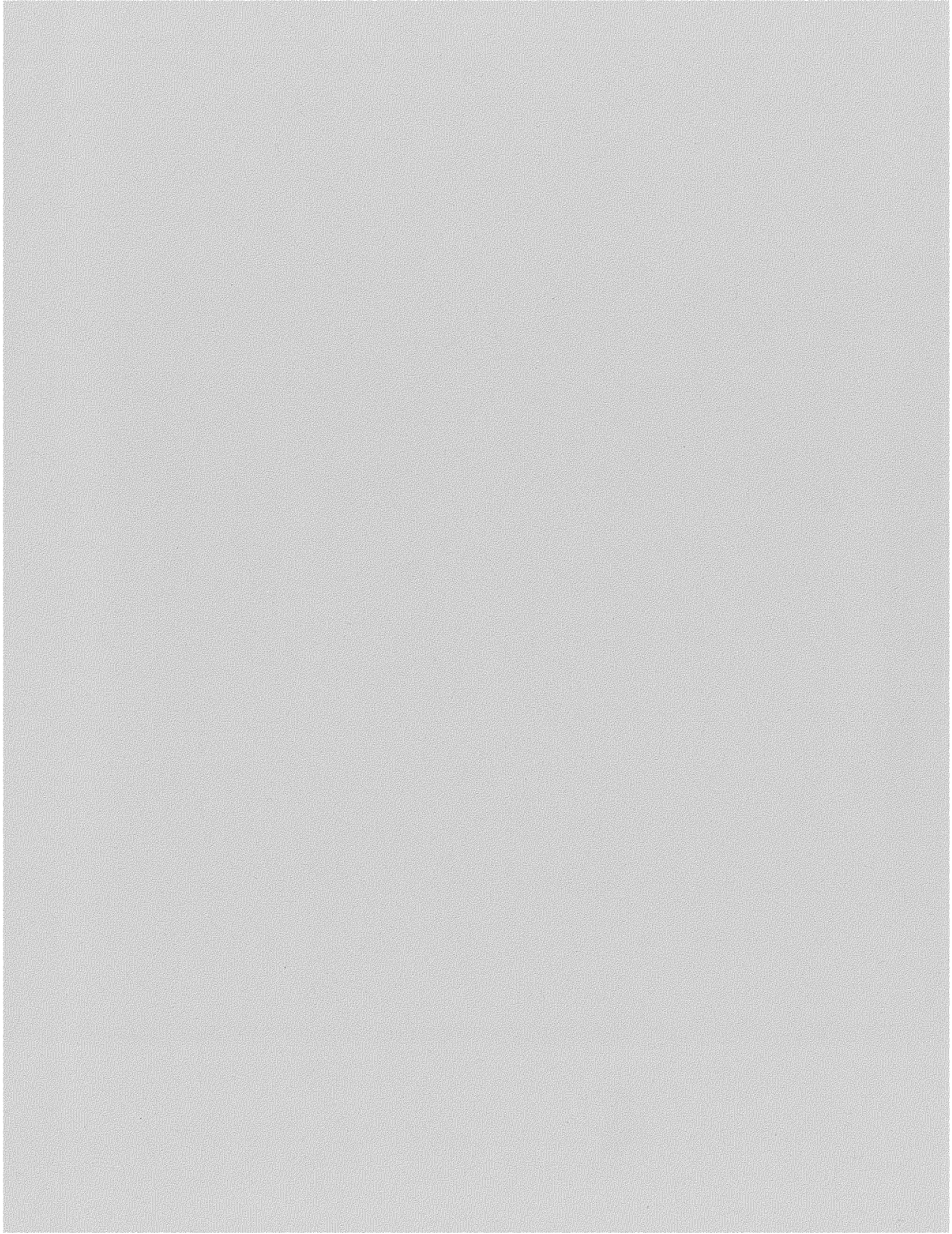
- 1 §402.411 – License Renewal
- 2 §402.412 – Signature Requirements
- 3 §402.413 – Military Service Members, Military Veterans, and Military Spouses
- 4 §402.420 – Qualifications and Requirements for Conductor’s License
- 5 §402.422 – Amendment to a Regular License to Conduct Charitable Bingo
- 6 §402.424 – Amendment of a License by Electronic Mail, Telephone or Facsimile
- 7 §402.442 – Amendment to a Commercial Lessor License
- 8 §402.443 – Transfer of a Grandfathered Lessor’s Commercial Lessor License
- 9 §402.450 – Request for Waiver
- 10 §402.451 – Operating Capital
- 11 §402.452 – Net Proceeds
- 12 §402.453 – Request for Operating Capital Increase
- 13 Subchapter E – Books and Records
- 14 §402.500 – General Records Requirements
- 15 §402.501 – Charitable Use of Net Proceeds
- 16 §402.502 – Charitable Use of Net Proceeds Recordkeeping
- 17 §402.503 – Bingo Gift Certificates
- 18 §402.504 – Debit Card Transactions
- 19 §402.505 – Permissible Expense
- 20 §402.506 – Disbursement Records Requirements
- 21 §402.511 – Required Inventory Records
- 22 §402.514 – Electronic Fund Transfers
- 23 Subchapter F – Payment of Taxes, Prize Fees and Bonds

- 1 §402.600 – Bingo Reports and Payments
- 2 §402.601 – Interest on Delinquent Tax
- 3 §402.602 – Waiver of Penalty, Settlement of Prize Fees, Rental Tax, Penalty and/or Interest
- 4 §402.603 – Bond or Other Security
- 5 §402.604 – Delinquent Purchaser
- 6 Subchapter G – Compliance and Enforcement
- 7 §402.700 – Denials; Suspensions; Revocations; Hearings
- 8 §402.701 – Investigation of Applicants for Licenses
- 9 §402.702 – Disqualifying Convictions
- 10 §402.703 – Audit Policy
- 11 §402.705 – Inspection of Premises
- 12 §402.706 – Schedule of Sanctions
- 13 §402.707 – Expedited Administrative Penalty Guideline
- 14 §402.708 – Dispute Resolution
- 15 §402.709 – Corrective Action

16 The Commission will assess whether the reasons for initially adopting each of these rules
17 continue to exist. Each rule will be reviewed to determine whether it is obsolete, whether it
18 reflects current legal and policy considerations, and whether it reflects current procedures of the
19 Commission.

20 Written comments pertaining to this rule review may be submitted by mail to Bob Biard,
21 General Counsel, at Texas Lottery Commission, P.O. Box 16630, Austin, Texas 78761-6630; by
22 facsimile at (512) 344-5189; or by email at *Legal.Input@lottery.state.tx.us*.

1 The deadline for comments is 30 days after publication of this notice in the *Texas*
2 *Register*. Proposed changes to any of these rules as a result of the rule review will be published
3 as separate rulemaking proceedings in the Proposed Rules section of the *Texas Register* at a later
4 date. Any proposed rule changes will be open for public comment prior to final adoption or
5 repeal by the Commission, in accordance with the requirements of the Administrative Procedure
6 Act, Texas Government Code, Chapter 2001.



1 The Texas Lottery Commission (Commission) files this notice of intent to review, and to
2 consider for readoption, amendment, or repeal, the Commission's rules at Title 16 Texas
3 Administrative Code Chapter 403, relating to General Administration. The names and numbers
4 of the rules contained in Chapter 403 are set forth below. This review is being conducted in
5 accordance with the requirements of Texas Government Code §2001.039 (Agency Review of
6 Existing Rules):

7 §403.101 - Open Records

8 §403.102 - Items Mailed to the Commission

9 §403.110 - Petition for Adoption of Rule Changes

10 §403.115 - Negotiated Rulemaking and Alternative Dispute Resolution

11 §403.201 - Definitions

12 §403.202 - Prerequisites to Suit

13 §403.203 - Sovereign Immunity

14 §403.204 - Notice of Claim of Breach of Contract

15 §403.205 - Agency Counterclaim

16 §403.206 - Request for Voluntary Disclosure of Additional Information

17 §403.207 - Duty to Negotiate

18 §403.208 - Timetable

19 §403.209 - Conduct of Negotiation

20 §403.210 - Settlement Approval Procedures

21 §403.211 - Settlement Agreement

22 §403.212 - Costs of Negotiation

23 §403.213 - Request for Contested Case Hearing

- 1 §403.214 - Mediation Timetable
- 2 §403.215 - Conduct of Mediation
- 3 §403.216 - Qualifications and Immunity of the Mediator
- 4 §403.217 - Confidentiality of Mediation and Final Settlement Agreement
- 5 §403.218 - Costs of Mediation
- 6 §403.219 - Settlement Approval Procedures
- 7 §403.220 - Initial Settlement Agreement
- 8 §403.221 - Final Settlement Agreement
- 9 §403.222 - Referral to the State Office of Administrative Hearings
- 10 §403.223 - Use of Assisted Negotiation Processes
- 11 §403.301 - Historically Underutilized Businesses
- 12 §403.401 - Use of Commission Motor Vehicles
- 13 §403.501 - Custody and Use of Criminal History Record Information
- 14 §403.600 - Complaint Review Process
- 15 §403.700 – Employee Tuition Reimbursement
- 16 §403.800 – Savings Incentive Program

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18 each of these rules continue to exist. Each rule will be reviewed to determine whether it is
19 obsolete, whether it reflects current legal and policy considerations, and whether it reflects
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