




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: December 12, 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).

Attached are draft rules prepared for submission to the *Texas Register* to adopt amendments to the referenced bingo rules with changes to the proposed text as published in the October 25, 2019, issue of the *Texas Register* (44 TexReg 6182) (also attached).

The amendments 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 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 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 within one day by an organization or organizations within the same unit. The 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 amendments eliminate the prize fee for merchandise prizes and define a "cash bingo prize" to include cash, coins, checks, or other negotiable instruments, but not stored-value cards as was initially proposed. The 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 amendments will bring the Commission's rules into compliance with the new law.

The rules being considered for adoption differ from the proposed rules in several ways. The Commission received public comments from Sharon Ives, Texas Charity Advocates, Texas Veterans of Foreign Wars, Stephen Fenoglio, the Bingo Advisory Committee, the Bingo Interest Group, and Patricia Greenfield. The comments had three common issues: (1) opposition to the inclusion of stored-value cards in the definition of “cash bingo prize”; (2) support for allowing organizations within a unit that sell pull-tabs over consecutive occasions within one day to account for sales and prizes at the end of the final occasion; and (3) support for including veteran’s status as a mitigating factor in licensing individuals with a criminal background.

The modified rules address each of those concerns. (1) The definition of “cash bingo prize” – for which a prize fee must be collected – has been changed to “cash, coins, checks, money orders, or any other financial instrument that is convertible to cash.” Stored-value cards will be treated as merchandize prizes for which no prize fee is collected. This is similar to an Office of the Attorney General ruling on the meaning of “money” awarded by a raffle, which does not include stored-value cards. (2) Organizations within a single unit that sell pull-tabs over consecutive occasions within one day will also be allowed to account for the pull-tabs at the end final occasion. The proposed rule only allowed individual organizations to account for sales at the final occasion. (3) Veteran’s status, including discharge status, has been added to the list of mitigating factors that the Commission must consider in determining to issue a license to a person with a criminal background. The proposed rule inadvertently removed it as a mitigating factor, so this is a return to the status quo. Finally, the phrase “during their licensed times” was removed from Rule 402.300(e)(1) in response to a comment that the rule conflicted with the Bingo Enabling Act, which now allows organizations to sell pull-tabs up to one hour before their licensed time.

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

1 The Texas Lottery Commission (Commission) adopts amendments to 16 TAC §§ 402.200
2 (General Restrictions on the Conduct of Bingo), 402.203 (Unit Accounting), 402.300 (Pull-Tab
3 Bingo), 402.402 (Registry of Bingo Workers), 402.500 (General Records Requirements), 402.503
4 (Bingo Gift Certificates), 402.511 (Required Inventory Records), 402.702 (Disqualifying
5 Convictions), and 402.706 (Schedule of Sanctions) with changes to the proposed text as published
6 in the October 25, 2019 issue of the *Texas Register* (44 TexReg 6182). The purpose of the
7 amendments is to implement statutory changes required by newly-enacted House Bill 914 (HB
8 914) and House Bill 1342 (HB 1342) from the Regular Session of the 86th Texas Legislature.

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

22 Lastly, HB 1342 amended Texas Occupations Code Chapter 53, which applies to
23 applicants for occupational licenses with criminal backgrounds. The bill eliminates the

1 consideration of all convictions that are not directly-related to the occupation and it creates a new
2 set of mitigating factors for agencies to consider when an applicant has a directly-related
3 conviction. The proposed version eliminated veteran's status as a mitigating factor, but it has been
4 preserved in this version. The amendments will bring the Commission's rules into compliance
5 with the new law.

6 A public comment hearing was held on Wednesday, November 6, 2019, at 10:00 a.m., at
7 611 E. 6th Street, Austin, Texas 78701. Sharon Ives provided oral comments in favor of allowing
8 units to account for pull-tab sales and prizes from consecutive occasions at the end of the final
9 occasion, and against including stored-value cards in the definition of "cash bingo prize." Ms. Ives
10 also provided written comments requesting that the Commission allow units to account for same-
11 day pull-tab sales and prizes at the end of the final occasion and that units be allowed three days
12 to deposit funds. Texas Charity Advocates (TCA), represented by Tom Stewart, provided oral and
13 written comments against including stored-value cards in the definition of "cash bingo prize" and
14 in favor of allowing units to account for same-day pull-tab sales and prizes at the end of the final
15 occasion. TCA also supports including veteran's status as a mitigating factor in licensing.
16 Department of Texas, Veterans of Foreign Wars, represented by Kim Kiplin, provided oral and
17 written comments against including stored-value cards in the definition of "cash bingo prize" and
18 in favor of including veteran's status as a mitigating factor in licensing. Stephen Fenoglio provided
19 oral and written comments against including stored-value cards in the definition of "cash bingo
20 prize" and in favor of including veteran's status as a mitigating factor in licensing. Trace Smith,
21 representing the Bingo Advisory Committee, provided oral and written comments against
22 including stored-value cards in the definition of "cash bingo prize" and in favor of allowing units
23 to account for same-day pull-tab sales and prizes at the end of the final occasion. Mr. Smith also

1 supports including veteran's status as a mitigating factor in licensing. The Bingo Interest Group,
2 represented by Steve Bresnen, provided oral comments against including stored-value cards in the
3 definition of "cash bingo prize" and in favor of allowing units to account for same-day pull-tab
4 sales and prizes at the end of the final occasion. Mr. Bresnen also supports including veteran's
5 status as a mitigating factor in licensing. Patricia Greenfield submitted written comments in favor
6 of allowing units 3 days to deposit bingo funds and requesting that organizations conducting in
7 multiple locations be allowed to document the required location information on either the occasion
8 cash report or the sales journal.

9 COMMENT: Sharon Ives requested that the Commission allow units to account for pull-
10 tab sales and prizes from consecutive occasions within a 24-hour period at the end of the last
11 occasion. She requested that the Commission not include stored-value cards in the definition of
12 "cash bingo prize" and instead adopt the definition of "money" from the Charitable Raffle Act.
13 She also requested that the Commission allow pull-tabs to be redeemed up to one hour in advance
14 and allow units to deposit bingo funds within 3 days.

15 RESPONSE: The Commission will allow organizations within a unit to account for pull-
16 tab sales and prizes from consecutive occasions within a 24-hour period at the end of the last
17 occasion. The Commission has removed stored-value cards from definition of "cash bingo prize,"
18 and the definition is now substantially similar to the definition of "money" in the Charitable Raffle
19 Act. Ms. Ives' other requests may not be adopted because they are in conflict with Bingo Enabling
20 Act Sections 2001.002(6) and 2001.435(b), respectively.

21 COMMENT: Texas Charity Advocates (TCA) strongly opposes the inclusion of gift cards
22 in the definition of "cash bingo prizes" and requests the Commission adopt the definition supported
23 by the Bingo Advisory Committee. TCA requested including veteran's status as a mitigating factor

1 in licensing. TCA requested that the Commission allow units to account for pull-tab sales and
2 prizes from consecutive occasions within a 24-hour period at the end of the last occasion.

3 RESPONSE: The Commission has removed stored-value cards from the definition of “cash
4 bingo prize.” The Commission has added veteran’s status as a mitigating factor in licensing. The
5 Commission will allow organizations within a single unit to account for pull-tab sales and prizes
6 from consecutive occasion within a 24-hour period at the end of the last occasion.

7 COMMENT: Texas VFW opposes the inclusion of stored-value cards in the definition of
8 “cash bingo prize” and requested the Commission adopt the common ordinary definition of “cash”
9 as set out in Merriam-Webster Dictionary. Texas VFW also requested that veteran’s status be
10 included as a mitigating factor in licensing.

11 RESPONSE: The Commission has removed stored-value cards from the definition of “cash
12 bingo prize” and has added veteran’s status as a mitigating factor in licensing.

13 COMMENT: Stephen Fenoglio opposes including stored-value cards in the definition of
14 “cash bingo prize” and supports including veteran’s status as a mitigating factor in licensing.

15 RESPONSE: The Commission has removed stored-value cards from the definition of “cash
16 bingo prize” and has added veteran’s status as a mitigating factor in licensing.

17 COMMENT: The Bingo Advisory Committee (BAC) opposed including stored-value
18 cards in the definition of “cash bingo prize” and supports allowing units to account for same-day
19 pull-tab sales and prizes at the end of the final occasion. The BAC also supports including veteran’s
20 status as a mitigating factor in licensing.

21 RESPONSE: The Commission has removed stored-value cards from the definition of “cash
22 bingo prize” and has added veteran’s status as a mitigating factor in licensing. The Commission

1 will allow organizations within a single unit to account for pull-tab sales and prizes from
2 consecutive occasion within a 24-hour period at the end of the last occasion.

3 COMMENT: The Bingo Interest Group (BIG) opposed including stored-value cards in the
4 definition of “cash bingo prize” and supports allowing organizations within a unit to account for
5 same-day pull-tab sales and prizes at the end of the final occasion. BIG also supports including
6 veteran’s status as a mitigating factor in licensing. BIG also requested deleting the phrase “during
7 their licensed times” from Rule 402.300(e)(1) because it conflicts with the recently amended Bingo
8 Enabling Act.

9 RESPONSE: The Commission has removed stored-value cards from the definition of “cash
10 bingo prize” and has added veteran’s status as a mitigating factor in licensing. The Commission
11 will allow organizations within a single unit to account for pull-tab sales and prizes from
12 consecutive occasion within a 24-hour period at the end of the last occasion. The Commission will
13 delete the phrase “during their licensed times” from Rule 402.300(e)(1).

14 COMMENT: Patricia Greenfield submitted written comments in favor of allowing units 3
15 days to deposit bingo funds and requesting that organizations conducting in multiple locations be
16 allowed to document the required location information on either the occasion cash report or the
17 sales journal.

18 RESPONSE: The first request is prohibited by Bingo Enabling Act Section 2001.435(b),
19 which specifically requires units to deposit bingo funds within 2 days. As for the second request,
20 the rule as proposed does not specify what document the information must be recorded on, so
21 organizations are free to use the occasion cash report, the sales journal, or any other method they
22 choose so long as it contains the required information.

1 The rule amendments are adopted under Texas Occupations Code §2001.054, which
2 authorizes the Commission to adopt rules to enforce and administer the Bingo Enabling Act; Texas
3 Government Code §467.102, which authorizes the Commission to adopt rules for the laws under
4 the Commission's jurisdiction.

5 §402.200. General Restrictions on the Conduct of Bingo.

6 (a) A bingo occasion that is fairly conducted by a licensed authorized organization is one that is
7 impartial, honest, and free from prejudice or favoritism. It is also conducted competitively, free of
8 corrupt and criminal influences, and follows applicable provisions of the Bingo Enabling Act and
9 Charitable Bingo Administrative Rules.

10 (b) Inspection and use of equipment.

11 (1) All bingo equipment is subject to inspection at any time by any representative of the
12 Commission. No person may tamper with or modify or allow others to tamper with or modify any
13 bingo equipment in any manner which would affect the randomness of numbers chosen or which
14 changes the numbers or symbols appearing on the face of a bingo card. A licensed authorized
15 organization has a continuing responsibility to ensure that all bingo equipment used by it is in
16 proper working condition.

17 (2) A registered bingo worker must inspect the bingo balls prior to the first game of each
18 bingo occasion, making sure all of the balls are present and not damaged or otherwise
19 compromised.

20 (3) Bingo balls that are missing, damaged, or otherwise compromised shall be replaced in
21 complete sets or individually if the bingo balls are of the same type and design.

22 (4) A registered bingo worker must inspect the bingo console and flashboard to ensure
23 proper working order prior to the first game of each bingo occasion.

1 (5) The organization must establish and adhere to, and make available to the players upon
2 request, a written procedure that addresses problems during a bingo occasion concerning:

3 (A) bingo equipment malfunctions; and

4 (B) improper bingo ball calls or placements.

5 (c) Location of bingo occasion. A bingo occasion may be conducted only on premises which are:

6 (1) owned by a licensed authorized organization;

7 (2) owned by a governmental agency when there is no charge to the licensed authorized
8 organization for use of the premises;

9 (3) leased, or used only by the holder of a temporary license; or

10 (4) owned or leased by a licensed commercial lessor.

11 (d) All bingo games must be conducted and prizes awarded on the days and within the times
12 specified on the license to conduct bingo. If a circumstance occurs that would cause a regular bingo
13 game to continue past the time indicated on the license, the licensed authorized organization may
14 complete the regular bingo game. A written record detailing the circumstance that caused the bingo
15 game to continue past the time indicated on the license must be maintained by the organization for
16 forty-eight (48) months.

17 (e) Pull-tab bingo event tickets may not be sold after the occurrence of the event used to determine
18 the game's winner(s) unless the organization has a policy and procedure in their house rules
19 addressing the sale and redemption of pull-tab bingo event tickets after the event has taken place.

20 (f) Merchandise prizes. Any merchandise or other non-cash prize, including bingo equipment,
21 awarded as a bingo prize shall be valued at its current retail price. However, a non-cash prize
22 awarded as a bingo prize may be valued at the price actually paid for that prize provided that the

1 licensed authorized organization maintains a receipt or other documentation evidencing the actual
2 price paid. [~~Prize fees must be collected on merchandise and non-cash prizes.~~]

3 (g) "Cash bingo prize" includes cash, coins, checks, money orders, or any other financial
4 instrument that is convertible to cash.

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

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

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

12 (A) how the game will be played;

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

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

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

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

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

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

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

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

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

6 (C) the patterns needed to win;

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

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

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

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

13 (4) The licensed authorized organization may amend the game schedule during the bingo
14 occasion to correctly reflect any changes to game play during that occasion provided that the
15 amendments are announced to the patrons and documented, in writing, on the game schedule. If
16 not otherwise prohibited by law, the licensed authorized organization may conduct a bingo game
17 that was not originally listed on the game schedule if the game and the prize(s) to be awarded for
18 that game are announced to the patrons prior to the start of the game and documented, in writing,
19 on the game schedule. Upon completion of the bingo occasion, the final game schedule must
20 properly account for all games played during that occasion and the prizes awarded for those games.
21 The final game schedule shall be maintained pursuant to §402.500(a) of this title (relating to
22 General Records Requirements).

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

~~(k)~~~~(j)~~ Bingo worker requirements

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

(2) A bingo worker shall not:

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

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

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

~~(l)~~~~(k)~~ Caller requirements. The caller shall:

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

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

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

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

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

(4) announce:

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

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

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

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

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

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

11 (m)~~(h)~~ Verification.

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

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

18 (B) After the caller closes the game, a winning disposable paper card or an
19 electronic representation of the card for each game shall also be posted on the licensed premises
20 where it may be viewed in detail by the players until at least 30 minutes after the completion of
21 the last bingo game of that organization's occasion.

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

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

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

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

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

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

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

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

17 §402.203. Unit Accounting.

18 (a) The provisions of this rule relate only to the accounting, reporting and operation of units in
19 accordance with the Bingo Enabling Act and this chapter. Nothing in this rule shall be construed
20 as a grant of authority or waiver of responsibility under federal law, including tax law, and other
21 state law.

22 (b) Definitions. In addition to the definitions provided in §402.100 of this chapter, and unless the
23 context in this section otherwise requires, the following definitions apply:

(1) Default--The term used to describe the status of a licensed authorized organization that does not timely pay for the sale or lease of bingo supplies or equipment as provided in Occupations Code, §2001.218.

(2) Net proceeds--The unit's gross receipts from bingo and gross rental income, if applicable, less prizes awarded and authorized expenses.

(c) Each unit will be assigned an identification number by the Commission.

(d) If a unit dissolves and starts another unit with the same organizations, for all intent and purposes, it is the same unit and is responsible for all liabilities and distributions owed by the prior unit.

(e) Unit Representation.

(1) All units, with the exception of a unit with a Unit Manager, must name a designated agent who is responsible for providing the Commission access to all inventory and financial records of the unit on request by the Commission.

(2) It is the responsibility of the unit's designated agent to provide information to the Commission on:

(A) the unit agreement or trust agreement;

(B) submission of all required forms;

(C) unit Quarterly Report; and

(D) unit's bingo records.

(3) The designated agent will make available all unit accounting records to any member of a licensed authorized organization whose organization is a member of the accounting unit within thirty (30) calendar days of the request.

(4) The designated agent will provide a copy of all unit accounting records to the bingo chairperson of a licensed authorized organization whose organization was a member of the accounting unit within thirty (30) calendar days of the date of separation.

(f) Unit's Use of Proceeds.

(1) All distributions of net proceeds of the unit shall be paid from the unit's bingo account to the account designated by the unit member. Each unit member is required to maintain adequate records establishing that the use of such net proceeds is in accordance with Occupations Code §2001.454.

(2) All prize fees collected in accordance with Occupation Code, §2001.502 must be deposited in the unit's bingo account and paid from the unit's bingo account.

(g) Unit Transactions.

(1) Upon prior written consent by the Commission:

(A) a licensed authorized organization may make a sale of bingo cards, pull-tab bingo tickets, or a used bingo flash board or blower to a unit;

(B) a unit may make a sale of bingo cards, pull-tab bingo tickets, or a used bingo flash board or blower to a licensed authorized organization; or

(C) a unit may make a sale of bingo cards, pull-tab bingo tickets, or a used bingo flash board or blower to another unit.

(D) Within thirty (30) calendar days of initially joining a unit, the licensed authorized organization shall notify the Commission of the bingo cards and pull-tab bingo tickets transferred to the unit.

(2) If a member of a unit is in default, a person may not sell or transfer bingo equipment or supplies to the unit on terms other than immediate payment on delivery.

1 (h) Unit Recordkeeping.

2 (1) Each unit must file a quarterly report and any required supplements on forms prescribed
3 by the Commission and maintain records to substantiate the contents of the reports.

4 (2) The unit must adhere to all applicable recordkeeping requirements in the Bingo
5 Enabling Act and Charitable Bingo Administrative Rules.

6 (3) A member of a unit which is also licensed as a commercial lessor must report its rental
7 income on the unit quarterly report.

8 (4) Each unit must maintain a log for each bingo occasion indicating the following:

9 (A) date of the occasion;

10 (B) licensed authorized organization conducting the bingo occasion; and

11 (C) operator on duty.

12 (i) Unit Bingo Account.

13 (1) The unit must establish and maintain one checking account designated as the "bingo
14 account." The unit must maintain the "bingo account" in compliance with the same provisions of
15 the Bingo Enabling Act and Charitable Bingo Administrative Rules applicable to a licensed
16 authorized organization.

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

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

20 (A) proceeds from the conduct of bingo;

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

1 (C) funds transferred by new members or funds transferred in accordance with
2 §402.202 of this subchapter (relating to Transfer of Funds).

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

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

7 (j) Transfer of Funds to the Unit Account by new Members.

8 (1) A licensed authorized organization joining a unit may transfer funds from its previous
9 bingo account into the unit bingo account at the time:

10 (A) the unit is formed;

11 (B) within 60 days of joining an existing unit;

12 (2) Any additional funds transferred to the unit bingo account must comply with §402.202
13 of this subchapter.

14 (3) Funds previously reported on a bingo quarterly report as charitable distributions may
15 not be transferred to the unit bingo account.

16 (4) All net proceeds remaining in the organization's former bingo account at the time it
17 joins a unit must:

18 (A) be disbursed by the last day of the quarter following the date the organization
19 joined the unit; or

20 (B) transferred to the unit bingo account in accordance with paragraph (1) of this
21 subsection.

22 (5) At the time an organization joins a unit, all of its bingo expenses must be paid from the
23 unit bingo account including outstanding bingo expenses and subsequent expenses. The total

1 amount of outstanding bingo expenses should be included in the amount of funds transferred at
2 the time the unit is formed or at the time of joining an existing unit.

3 (6) If a unit member does not have sufficient funds to cover outstanding bingo expenses or
4 the amount required to join the unit, the unit member's portion of the charitable distribution may
5 be reduced until these obligations have been satisfied. This business practice may be used provided
6 that:

7 (A) the exact terms are reflected in the unit agreement;

8 (B) a copy of the unit agreement is provided to the Commission; and

9 (C) the unit meets the charitable distribution requirement.

10 (7) If the organization transferred funds from its previous bingo account into the unit bingo
11 account, the funds must be reported on the unit's "Texas Bingo Quarterly Report" for the quarter
12 they were transferred and on the last "Texas Bingo Quarterly Report" the organization filed as a
13 non-unit member.

14 (8) An organization that is required to file a Texas Bingo Quarterly Report for a period
15 prior to joining a unit must file a Final Disposition of Bingo Proceeds in Bank Account reporting
16 the final disposition of all proceeds in its bingo account. The form must be submitted with the
17 unit's "Texas Bingo Quarterly Report" for that quarter and would be subject to all "Texas Bingo
18 Quarterly Report" filing deadlines, requirements and penalties.

19 (k) Distribution of Funds Upon Withdrawal or Dissolution.

20 (1) An organization receiving a distribution of funds from the unit's bingo account upon
21 leaving the unit, must classify the distribution as a charitable distribution on the unit's "Texas
22 Bingo Quarterly Report".

1 (2) Funds distributed as a charitable distribution must be used for the charitable purpose of
2 the organization in accordance with the Bingo Enabling Act and Charitable Bingo Administrative
3 Rules and may not be used to join another unit.

4 (3) A licensed authorized organization joining or withdrawing from a unit at any time other
5 than at the beginning or ending of a reporting quarter is responsible for filing a separate quarterly
6 report for bingo activities conducted apart from the unit.

7 (l) Responsibilities of Unit Members.

8 (1) Each unit member organization is responsible for administering its own bingo occasions
9 and for any violations of the Bingo Enabling Act or Charitable Bingo Administrative Rules that
10 may take place.

11 (2) Each unit member organization is responsible for maintaining and retaining the bingo
12 records relating to all aspects of its occasions up to and including the point at which the deposit is
13 made into the unit's bingo account.

14 (3) Each unit member organization is liable for any bingo cash shortages, inventory
15 shortages, or missing or deficient occasion deposits occurring in association with its bingo
16 occasion conducted.

17 (4) Each unit member organization is responsible for distributing the bingo proceeds
18 received from the unit for its authorized charitable purposes.

19 §402.300. Pull-Tab Bingo.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 and

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

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

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

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

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

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

1 (A) a designated payout; or

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

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

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

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

8 (19) Consecutive bingo occasions within one day--More than one bingo occasion
9 conducted by an organization or organizations in the same unit within a 24-hour period without
10 any intervening occasions conducted by another organization or organization from a different unit,
11 commencing at the start of the first occasion.

12 (b) Approval of pull-tab bingo tickets.

13 (1) A pull-tab bingo ticket may not be sold in the state of Texas, nor furnished to any person
14 in this state nor used for play in this state until that pull-tab bingo ticket has received approval for
15 use within the state of Texas by the Commission. The manufacturer at its own expense must
16 present their pull-tab bingo ticket to the Commission for approval.

17 (2) All pull-tab bingo ticket color artwork with a letter of introduction including style of
18 play must be presented to the Commission's Austin, Texas location for review. The manufacturer
19 must submit one complete color positive or hardcopy set of the color artwork for each pull-tab
20 bingo ticket and its accompanying flare. The color artwork may be submitted in an electronic
21 format prescribed by the Commission in lieu of the hardcopy submission. The submission must
22 include the payout schedule. The submission must show both sides of a pull-tab bingo ticket and
23 must be submitted on an 8 1/2" x 11" size sheet. The color artwork will show the actual size of the

1 ticket and a 200% size of the ticket. The color artwork will clearly identify all winning and non-
2 winning symbols. The color artwork will clearly identify the winnable patterns and combinations.

3 (3) The color artwork for each individual pull-tab bingo ticket must:

4 (A) display in no less than 26-point diameter circle, an impression of the
5 Commission's seal with the words "Texas Lottery Commission" engraved around the margin and
6 a five-pointed star in the center;

7 (B) contain the name of the game in a conspicuous location on the pull-tab bingo
8 ticket;

9 (C) contain the form number assigned by the manufacturer in a conspicuous
10 location on the pull-tab bingo ticket;

11 (D) contain the manufacturer's name or trademark in a conspicuous location on the
12 pull-tab bingo ticket;

13 (E) disclose the prize amount and number of winners for each prize amount, the
14 number of individual pull-tab bingo tickets contained in the deal, and the cost per pull-tab bingo
15 ticket in a conspicuous location on the pull-tab bingo ticket;

16 (F) display the serial number where it will be printed in a conspicuous location on
17 the pull-tab bingo ticket. The color artwork may display the word "sample" or number "000000"
18 in lieu of the serial number;

19 (G) contain graphic symbols that preserve the integrity of the Commission. The
20 Commission will not approve any pull-tab bingo ticket that displays images or text that could be
21 interpreted as depicting violent acts, profane language, or provocative, explicit, or derogatory
22 images or text, as determined by the Commission. All images or text are subject to final approval
23 by the Commission; and

1 (H) be accompanied with the color artwork of the pull-tab bingo tickets along with
2 a list of all other colors that will be printed with the game.

3 (4) Upon approval of the color artwork, the manufacturer will be notified by the
4 Commission to submit a specified number of tickets for testing. The tickets must be submitted for
5 testing to the Commission at the manufacturer's own expense. If necessary, the Commission may
6 request that additional tickets or a deal be submitted for testing.

7 (5) If the color artwork is approved and the pull-tab bingo tickets pass the Commission's
8 testing, the manufacturer will be notified of the approval. This approval only extends to the specific
9 pull-tab bingo game and the specific form number cited in the Commission's approval letter. If the
10 pull-tab bingo ticket is modified in any way, with the exception of the serial number, index color,
11 or trademark(s), it must be resubmitted to the Commission for approval. Changes to symbols
12 require only an artwork approval from the Commission.

13 (6) The Commission may require resubmission of an approved pull-tab bingo ticket at any
14 time.

15 (c) Disapproval of pull-tab bingo tickets.

16 (1) Upon inspection of a pull-tab bingo ticket by the Commission, if it is deemed not to
17 properly preserve the integrity or security of the Commission including compliance with the art
18 work requirements of this rule, the Commission may disapprove a pull-tab bingo ticket. All pull-
19 tab bingo tickets that are disapproved by the Commission will cease to be allowed for sale until
20 such time as the manufacturer complies with the written instructions of the Commission, or until
21 any discrepancies are resolved. Disapproval of and prohibition to use, purchase, sell or otherwise
22 distribute such a pull-tab bingo ticket is effective immediately upon notice to the manufacturer by
23 the Commission. Upon receipt of such notice, the manufacturer must immediately notify the

1 distributor and the distributor must immediately notify affected licensed authorized organizations
2 to cease all use, purchase, sale or other distribution of the disapproved pull-tab ticket. The
3 distributor must provide to the Commission, within 15 days of the Commission's notice to the
4 manufacturer, confirmation that the distributor has notified the licensed authorized organization
5 that the pull-tab ticket has been disapproved and sale and use of the disapproved ticket must cease
6 immediately.

7 (2) If modified by the manufacturer all disapproved pull-tab bingo tickets may be
8 resubmitted to the Commission. No sale of disapproved tickets will be allowed until the
9 resubmitted tickets have passed security testing by the Commission. At any time the manufacturer
10 may withdraw any disapproved pull-tab bingo tickets from further consideration.

11 (3) The Commission may disapprove a pull-tab bingo game at any stage of review, which
12 includes artwork review and security testing, or at any time in the duration of a pull-tab bingo
13 game. The disapproval of a pull-tab bingo ticket is administratively final.

14 (d) Manufacturing requirements.

15 (1) Manufacturers of pull-tab bingo tickets must manufacture, assemble, and package each
16 deal in such a manner that none of the winning pull-tab bingo tickets, nor the location, or
17 approximate location of any winning pull-tab bingo ticket can be determined in advance of opening
18 the deal by any means or device. Nor should the winning pull-tab bingo tickets, or the location or
19 approximate location of any winning pull-tab bingo ticket be determined in advance of opening
20 the deal by manufacture, printing, color variations, assembly, packaging markings, or by use of a
21 light. Each manufacturer is subject to inspection by the Commission, its authorized representative,
22 or designee.

1 (2) All winning pull-tab bingo tickets as identified on the payout schedule must be
2 randomly distributed and mixed among all other pull-tab bingo tickets of the same serial number
3 in a deal regardless of the number of packages, boxes, or other containers in which the deal is
4 packaged. The position of any winning pull-tab bingo ticket of the same serial numbers must not
5 demonstrate a pattern within the deal or within a portion of the deal. If a deal of pull-tabs is packed
6 in more than one box or container, no individual container may indicate that it includes a winner
7 or contains a disproportionate share of winning or losing tickets.

8 (3) Each deal's package, box, or other container shall be sealed at the manufacturer's factory
9 with a seal including a warning to the purchaser that the deal may have been tampered with if the
10 package, box, or other container was received by the purchaser with the seal broken.

11 (4) Each deal's serial number shall be clearly and legibly placed on the outside of the deal's
12 package, box or other container or be able to be viewed from the outside of the package, box or
13 container.

14 (5) A flare must accompany each deal.

15 (6) The information contained in subsection (a)(3)(A), (B), (C), (D), and (F) of this section
16 shall be located on the outside of each deal's sealed package, box, or other container.

17 (7) Manufacturers must seal or tape, with tamper resistant seal or tape, every entry point
18 into a package, box or container of pull-tab bingo tickets prior to shipment. The seal or tape must
19 be of such construction as to guarantee that should the container be opened or tampered with, such
20 tampering or opening would be easily discernible.

21 (8) All high tier winning instant pull-tab bingo tickets must utilize a secondary form of
22 winner verification.

1 (9) Each individual pull-tab bingo ticket must be constructed so that, until opened by a
2 player, it is substantially impossible, in the opinion of the Commission, to determine its concealed
3 letter(s), number(s) or symbol(s).

4 (10) No manufacturer may sell or otherwise provide to a distributor and no distributor may
5 sell or otherwise provide to a licensed authorized organization of this state or for use in this state
6 any pull-tab bingo game that does not contain a minimum prize payout of 65% of total receipts if
7 completely sold out.

8 (11) A manufacturer in selling or providing pull-tab bingo tickets to a distributor shall seal
9 or shrink-wrap each package, box, or container of a deal completely in a clear wrapping material.

10 (12) Pull-tab bingo tickets must:

11 (A) be constructed of cardboard and glued or otherwise securely sealed along all
12 four edges of the pull-tab bingo ticket and between the individual perforated break-open tab(s) on
13 the ticket. The glue must be of sufficient strength and type so as to prevent the separation of the
14 sides of a pull-tab bingo ticket;

15 (B) have letters, numbers or symbols that are concealed behind perforated window
16 tab(s), and allow such letters, numbers or symbols to be revealed only after the player has
17 physically removed the perforated window tab(s);

18 (C) prevent the determination of a winning or losing pull-tab bingo ticket by any
19 means other than the physical removal of the perforated window tab(s) by the player;

20 (D) be designed so that the numbers and symbols are a minimum of $\frac{2}{32}$ ($\frac{4}{64}$)
21 inch from the dye-cut window perforations;

1 (E) be designed so that the lines or arrows that identify the winning symbol
2 combinations will be a minimum of 5/32 inch from the open edge farthest from the hinge of the
3 dye-cut window perforations;

4 (F) be designed so that highlighted "pay-code" designations that identify the
5 winning symbol combinations will be a minimum of 3.5/32 (7/64) inch from the dye-cut window
6 perforations;

7 (G) be designed so that secondary winner protection codes appear in the left margin
8 of the ticket, unless the secondary winner protection codes are randomly generated serial number-
9 type winner protection codes. Randomly generated serial number-type winner protection codes
10 will be randomly located in either the left or middle column of symbols and will be designed so
11 that the numbers are a minimum of 3.5/32 (7/64) inch from the dye-cut window perforations. Any
12 colored line or bar or background used to highlight the winner protection code will be a minimum
13 3.5/32 (7/64) inch from the dye-cut window perforations;

14 (H) have the Commission's seal placed on all pull-tab bingo tickets by only a
15 licensed manufacturer; and

16 (I) be designed so that the name of the manufacturer or its distinctive logo, form
17 number and serial number unique to the deal, name of the game, price of the ticket, and the payout
18 structure remain when the letters, numbers, and symbols are revealed.

19 (13) Wheels must be submitted to the Commission for approval. As a part of the approval
20 process, the following requirements must be demonstrated to the satisfaction of the Commission:

21 (A) wheels must be able to spin at least four times with reasonable effort;

22 (B) wheels must only contain the same number or symbols as represented on the
23 event ticket; and

1 (C) locking mechanisms must be installed on wheel(s) to prevent play outside the
2 licensed authorized organization's licensed time(s).

3 (14) A manufacturer must include with each pull-tab bingo ticket deal instructions for how
4 the pull-tab bingo ticket can be played in a manner consistent with the Bingo Enabling Act and
5 this chapter. The instructions are not required to cover every potential method of playing the pull-
6 tab bingo ticket deal.

7 (e) Sales and redemption.

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

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

20 (3) For a licensed authorized organization that conducts bingo through a unit created and
21 operated under Texas Occupations Code, Subchapter I-1, any organization in the unit may sell or
22 redeem event pull-tab tickets from a deal on the premises specified in their bingo licenses and
23 during such licensed time on consecutive occasions within one 24-hour period.

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

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

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

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

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

18 (9) The licensed authorized organization's gross receipts from the sale of pull-tab bingo
19 tickets must be included in the reported total gross receipts for the organization, except that an
20 organization or organizations within a unit that conducts consecutive bingo occasions during one
21 day may account for and report all of the pull-tab bingo ticket sales for the occasions as sales for
22 the final occasion. An organization or unit that chooses to account for pull-tab bingo ticket sales
23 for consecutive bingo occasions during one day as sales for the final occasion must also account

1 for pull-tab bingo ticket prizes awarded over those occasions as prizes awarded for the final
2 occasion. Each deal of pull-tab bingo tickets must be accounted for in sales, prizes or unsold cards.

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

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

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

11 (f) Inspection. The Commission, its authorized representative or designee may examine and
12 inspect any individual pull-tab bingo ticket or deal of pull-tab bingo tickets and may pull all
13 remaining pull-tab bingo tickets in an unsold deal.

14 (g) Records.

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

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

1 occasion must also account for pull-tab bingo ticket prizes awarded over those occasions as prizes
2 awarded for the final occasion. The aggregate total sales for the licensed authorized organization
3 must be recorded on the cash 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[~~5~~] 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) Style of Play. The following pull-tab bingo tickets are authorized by this rule. A last sale feature
5 can be utilized on any pull-tab bingo ticket.

6 (1) Sign-up Board. A form of pull-tab bingo that is played with a sign-up board. Sign-up
7 board tickets that contain a winning numeric, alpha or symbol instantly win the stated prize or
8 qualify to advance to the sign-up board. The sign-up board that serves as the game flare is where
9 identified winning sign-up board ticket holders may register for the opportunity to win the prize
10 indicated on the sign-up board.

11 (2) Sign-up Board Ticket. A sign up board ticket is a form of pull-tab bingo played with a
12 sign-up board. A single window or multiple windows sign-up board ticket reveals a winning (or
13 losing) numeric, alpha or symbol that corresponds with the sign-up board.

14 (3) Tip Board. A form of pull-tab game where perforated tickets attached to a placard that
15 have a predetermined winner under a seal.

16 (4) Coin Board. A placard that contains prizes consisting of coin(s). Coin boards can have
17 a sign-up board as part of its placard.

18 (5) Coin Board Ticket. A form of pull-tab bingo that when opened reveals a winning
19 number or symbol that corresponds with the coin board.

20 (6) Event Ticket. A form of pull-tab bingo that utilizes some subsequent action to determine
21 the event ticket winner(s), such as a drawing of ball(s), spinning wheel, opening of a seal on a
22 flare(s) or any other method approved by the Commission so long as that method has designated
23 numbers, letters, or symbols that conform to the randomly selected numbers or symbols. When a

1 flare is used to determine winning tickets, the flare shall have the same form number and serial
2 number as the event tickets. Pull-tab bingo tickets used as event tickets must contain more than
3 two instant winners.

4 (7) Instant Ticket. A form of pull-tab bingo that has pre-determined winners and losers and
5 has immediate recognition of the winners and losers.

6 (8) Multiple Part Event or Multiple Part Instant Ticket. A pull-tab bingo ticket that is
7 broken apart and sold in sections by a licensed authorized organization. Each section of the ticket
8 consists of a separate deal with its own corresponding payout structure, form number, serial
9 number, and winner verification.

10 (9) Jackpot Pull-Tab Game. A style of pull-tab game that has a stated prize and a chance at
11 a jackpot prize(s). A portion of the stated payout is contributed to the jackpot prize(s). Each jackpot
12 is continuous for the same form number and continues until a jackpot prize(s) is awarded; provided
13 that, any jackpot prize(s) must not exceed the statutory limits.

14 (10) Video Confirmation shall be subject to Commission approval.

15 §402.402. Registry of Bingo Workers.

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

18 (1) Bingo Chairperson--an individual named in accordance with Texas Occupations Code
19 §2001.002(4-a) and §2001.102(b)(6).

20 (2) Bookkeeper--an individual ultimately responsible for the preparation of any financial
21 records for information reported on the Texas Bingo Conductor's Quarterly Report or for
22 preparation and maintenance of bingo inventory records for a licensed authorized organization.

1 (3) Caller--an individual who operates the bingo ball selection device and announces the
2 balls selected.

3 (4) Cashier--an individual who sells and records bingo card and pull-tab sales to bingo
4 players and/or pays winners the appropriate prize.

5 (5) Completed Application--A registry application or renewal form prescribed by the
6 Commission which is legible and lists at a minimum the applicant's complete legal name, address,
7 social security number or registry number, date of birth, race, gender and signature.

8 (6) Manager--an individual who oversees the day-to-day operation of the bingo premises.

9 (7) Operator--means an active bona fide member of a licensed authorized organization that
10 has been designated on a form prescribed by the Commission prior to acting in the capacity as the
11 organization's operator.

12 (8) Provisional Employee--an individual who is employed by a licensed authorized
13 organization as an operator, manager, cashier, usher, caller, or salesperson while awaiting the
14 results of a background check, whether paid or not.

15 (9) Salesperson--an individual who monitors bingo players, sells bingo cards and pull-tabs,
16 verifies winning cards and pull-tabs and/or delivers the prize money to the winners; may be
17 referred to as an usher, floor worker, or runner.

18 (10) Usher--an individual who monitors bingo players, sells bingo cards and pull-tabs,
19 verifies winning cards and pull-tabs and/or delivers the prize money to the winners; may be
20 referred to as a salesperson, floor worker or runner.

21 (b) Who must be listed on the Registry of Approved Bingo Workers. Any individual who carries
22 out or performs the functions of a caller, cashier, manager, operator, usher, salesperson,

bookkeeper, or bingo chairperson as defined in subsection (a) of this section must be listed on the Registry of Approved Bingo Workers prior to being involved in the conduct of bingo.

(c) Each individual must submit a completed Texas Application for Registry of Approved Bingo Workers as prescribed by the Commission to remain on the Registry of Approved Bingo Workers.

(d) The registrant will be added to the registry as soon as possible after the Commission has determined that the individual is eligible to be involved in the conduct of bingo or act as an operator.

(e) For purposes of the Registry of Approved Bingo Workers, each operator, bookkeeper, and bingo chairperson must be designated on the licensed authorized organization's license to conduct bingo application.

(f) A licensed authorized organization must submit the name of a registered operator, bookkeeper, or bingo chairperson on a form prescribed by the Commission prior to the individual's acting in that capacity.

(g) A registered worker who fails to timely submit the prescribed form to renew listing on the registry may not be involved in the conduct of bingo until the individual is again added to the registry. It is the responsibility of the licensed authorized organization to review the registry to confirm that the individual's registration is current.

(h) How to be listed on the Registry of Approved Bingo Workers. For an individual to be listed on the Registry of Approved Bingo Workers, an individual must:

(1) submit a completed Texas Application for Registry of Approved Bingo Workers form as prescribed by the Commission;

(2) submit a verifiable FBI or DPS fingerprint card if at the time of registration:

(A) the individual is residing outside of Texas; or

1 (B) the individual maintains a driver's license or registration in another state; and

2 (3) be determined by the Commission to not be ineligible under Texas Occupations Code,
3 §2001.105(a)(6) or the Commission's Rules.

4 (i) Incomplete Applications. The Commission will notify the applicant at the address provided if
5 the registry application or renewal form submitted is not complete and will identify what is
6 missing. The original application will be returned to the applicant for correction and resubmission.
7 It is the responsibility of the registry applicant to resubmit a completed application before it may
8 be processed. Failure to submit an FBI or DPS fingerprint card, if required, is grounds for denial
9 or removal of the registration.

10 (j) An individual listed on the registry must notify the Commission of any changes to information
11 contained on the Texas Application for Registry of Approved Bingo Workers on file with the
12 Commission within 30 days of the change in information. Such notification shall be in writing or
13 other approved electronic means.

14 (k) Identification Card for Approved Bingo Worker.

15 (1) The Commission will issue an identification card indicating that the individual is listed
16 on the registry. A registered worker and operator must wear his/her identification card while on
17 duty.

18 (2) The identification card worn by the registered worker or operator while on duty must
19 be visible.

20 (3) The identification card shall list the individual's name, unique registration number and
21 registry expiration date as issued by the Commission. An individual may obtain the unique
22 registration number and registry expiration date from the Registry of Approved Bingo Workers on

1 the Commission's website or by requesting the registration number and registry expiration date
2 from the Commission.

3 (4) An identification card is not transferable and may be worn only by the individual
4 identified on the card.

5 (5) Upon request by a Commission employee, an individual described in subsection (a) of
6 this section shall present personal photo identification in order to verify the identification card is
7 that individual's card.

8 (l) How to Obtain Additional Approved Identification Cards.

9 (1) A completed identification card may be obtained from the Commission by submitting
10 the required form.

11 (2) An individual who has been approved to work in charitable bingo may complete an
12 identification card form provided by the Commission for use while on duty. Blank identification
13 card forms may be obtained from the Commission. The individual requesting the identification
14 card form(s) must submit any required fee and the required form for the blank identification card
15 form.

16 (3) The identification card prepared by the individual may only be on a prescribed
17 Commission card form and must be legible and include the individual's name, unique registration
18 number, and registry expiration date.

19 (m) A licensed authorized organization which is reporting conduct where there is a substantial
20 basis for believing that the conduct would constitute grounds for removal or refusal to list on the
21 registry shall make the report in writing to: Bingo Registry, Texas Lottery Commission, P.O. Box
22 16630, Austin, Texas 78761-6630.

1 (n) The provisions of the Texas Occupations Code §2001.313, related to the registry of bingo
2 workers, do not apply to an authorized organization that does not have a regular license to conduct
3 bingo who receives a temporary license to conduct bingo.

4 (o) If the Commission proposes to refuse to add or proposes to remove the individual from the
5 Registry of Approved Bingo Workers consistent with Texas Occupations Code §2001.313, the
6 Commission will give notice of the proposed action as provided by Government Code, Chapter
7 2001.

8 (p) An individual receiving notice that the Commission intends to refuse to add to or intends to
9 remove the individual from the Registry of Approved Bingo Workers may request a hearing.
10 Failure to submit a written request for a hearing within 30 calendar days of the date of the notice
11 will result in the denial of the application or removal of the registered worker from the registry.

12 (q) An individual who has been denied or removed from the registry because of a conviction for
13 an offense listed under Occupations Code §2001.105(b) will not be eligible to reapply to be listed.
14 An individual who has been denied or removed from the registry because of a disqualifying
15 criminal conviction not listed under Occupations Code §2001.105(b) may reapply to be listed no
16 earlier than five years after the commission of the offense, or as otherwise allowed under the
17 Commission's Rules.

18 (r) A provisional employee must:

19 (1) immediately stop working:

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

22 (B) after 75 days if the individual is not listed on the registry, not a resident of this
23 state, and submitted a fingerprint card for a background investigation. If the fingerprint cards are

1 returned by the law enforcement agency as unclassifiable, the Commission will notify the
2 individual, and the individual may continue to be provisionally employed by submitting a written
3 request and new fingerprint cards within 14 days of the notification;

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

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

8 (s) A licensed authorized organization who employs a provisional employee must maintain a copy
9 of the registry applicant's completed Texas Application for Registry of Approved Bingo Workers
10 form submitted to the Commission until the individual is listed on the registry or the licensed
11 authorized organization is notified that the individual is not eligible to be listed. Payment for the
12 employment of a provisional employee as outlined in subsection (a)(8) of this section is an
13 authorized bingo expense; however, payment for non-registered workers is not an authorized bingo
14 expense.

15 §402.500. General Records Requirements.

16 (a) Licensees shall retain for four years all information and records required to be maintained by
17 the Bingo Enabling Act (Texas Occupations Code, Chapter 2001) or the Charitable Bingo
18 Administrative Rules.

19 (b) Unless otherwise prescribed by Commission rule, a licensee may maintain information in a
20 form determined by the licensee as long as that form includes the information required by the
21 Bingo Enabling Act and the Charitable Bingo Administrative Rules.

22 (c) Upon request of the Commission, a licensee shall provide any information required to be
23 maintained by the Bingo Enabling Act and the Charitable Bingo Administrative Rules. Except in

cases of emergency, the Commission shall provide reasonable advance notice of the specific information and records needed and the time and location at which they must be made available.

(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) A bingo gift certificate may be sold, issued, or redeemed for bingo paper, pull-tab bingo or card-minding devices provided that the licensed authorized organization or unit, as defined in Occupations Code, §2001.431(1), maintains adequate records relating to the gift certificate as provided in this section.

(b) A licensed authorized organization's cost of printing the bingo gift certificate is an allowable bingo expense and shall be paid out of the bingo checking account. In order to maintain adequate records relating to gift certificates, all gift certificates shall be pre-numbered and consecutively issued.

(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) A bingo gift certificate may not be awarded as a door prize unless the value of the certificate is paid for before it is awarded as a door prize.

(e) Each bingo gift certificate shall be:

(1) imprinted with the name and address of the licensed location(s) where the gift certificate may be redeemed for bingo paper, pull-tab bingo or card-minding devices;

(2) imprinted with the monetary value of the certificate;

(3) imprinted with the name of the licensed authorized organization(s) authorized to accept the bingo gift certificate at the licensed location;

(4) imprinted with the expiration date or a blank space for the licensed authorized organization or unit to fill in an expiration date; and

(5) paid for by the customer in full at the time it is issued by the licensed authorized organization or unit.

(f) A licensed authorized organization may not accept a gift certificate in exchange for bingo paper, pull-tab bingo or card-minding devices if the licensed authorized organization is not licensed to conduct bingo at the licensed location(s) imprinted on the gift certificate.

(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) Records Retention. The purchase invoice or receipt from the printing of a gift certificate and
the reconciliation documents relating to the sale or redemption of gift certificates must be
maintained and available for inspection by the Commission for a period of four years.

(i) Gift Certificate Log. A gift certificate log shall be maintained collectively by the participating
licensed authorized organizations at the location(s) and shall include the following for each gift
certificate:

(1) certificate number;

(2) certificate value;

(3) date of issue;

(4) expiration date;

(5) date of redemption; and

(6) if awarded as a bingo or door prize, the date of the bingo occasion and the date the prize
is awarded.

§402.511. Required Inventory Records.

(a) A licensed authorized organization or unit shall maintain a perpetual inventory of:

(1) disposable bingo cards described in subsection (d) of this section; and

(2) pull-tab bingo tickets described in subsection (e) of this section.

(b) Each perpetual inventory shall account for all sold and unsold disposable bingo cards and pull-tab bingo tickets, as well as inventory items designated for destruction.

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

(d) The perpetual inventory of disposable bingo cards shall contain:

(1) organization's or unit's name and taxpayer number;

(2) serial and series number and the color of the paper or border (For UPS pad, use the top sheet for obtaining color, serial and series numbers.);

(3) number of faces (ON) and number of sheets (UP);

(4) number of sheets or UPS pads for each serial and series number remaining after each occasion;

(5) occasion date(s) the paper was used;

(6) number of sheets or packs sold, missing or damaged by date; and

(7) initials of person entering the information per occasion.

(e) The perpetual inventory of pull-tab bingo tickets shall contain:

(1) organization's or unit's name and taxpayer number;

(2) form number;

(3) serial number;

(4) number of tickets per deal;

(5) number of tickets sold, missing, or damaged by occasion date;

(6) number of pull-tab tickets remaining if the deal is closed; and

(7) occasion date(s) the pull-tab tickets were sold.

1 §402.702. Disqualifying Convictions.

2 (a) The Commission shall determine, consistent with the requirements of Chapters 53 and 2001,
3 Occupations Code, whether criminal convictions affect the eligibility of an applicant for a new or
4 renewal license or listing in the registry of approved bingo workers under the Bingo Enabling Act
5 (BEA). The Director of the Charitable Bingo Operations Division (Director) shall have the
6 authority to make such determinations pursuant to this section. The Commission will not apply
7 Chapter 53, Occupations Code, to officers, directors, or shareholders of, or other individuals
8 associated with, an applicant that is a non-individual business entity.

9 (b) If any of the following persons have been convicted of a gambling or gambling-related offense,
10 or criminal fraud, the applicant for a license or a listing in the registry of approved bingo workers
11 will not be eligible for a new or renewal license or registry listing, as applicable: the applicant; or
12 for an applicant for a license, any person whose conviction of any such offense would render the
13 applicant ineligible under the eligibility standards for the particular type of license (*i.e.*, BEA
14 §2001.105(b) for authorized organizations, BEA §2001.154(a)(5) for commercial lessors, BEA
15 §2001.202(9) for manufacturers, and BEA §2001.207(9) for distributors). Such a conviction
16 (which shall not include deferred adjudications and/or nolo contendere pleas) shall be a permanent
17 bar to the applicant obtaining a license or registry listing.

18 (1) The Commission deems any gambling or gambling-related offense to be any offense
19 listed in Penal Code, Chapter 47, Gambling; the offense of Penal Code, §71.02(a)(2), Engaging in
20 Organized Criminal Activity; or any offense committed, including in another state or Federal
21 jurisdiction, involving substantially similar conduct as an offense cited in Penal Code Chapter 47
22 or §71.02(a)(2).

1 (2) The Commission deems any offense involving criminal fraud to be any offense listed
2 in the following Penal Code Chapters and as described below, with the exception of Class C
3 misdemeanors:

4 (A) Penal Code, Chapter 32, Fraud;

5 (B) Penal Code, Chapter 35, Insurance Fraud;

6 (C) Penal Code, Chapter 35A, Medicaid Fraud; or

7 (D) Any offense committed, including in another state or Federal jurisdiction,
8 involving substantially similar conduct as an applicable offense under these enumerated Penal
9 Code, Chapters 32, 35, or 35A.

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

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

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

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

17 (3)~~[(4)]~~ A sexually violent offense, as defined by Article 62.001 of the Code of Criminal
18 Procedure.

19 (d) For offenses that do not fall under subsection (b) or (c) of this section, such as offenses for
20 which a person pleaded nolo contendere and/or received deferred adjudication and court
21 supervision, and except as provided in subsection (a) of this section, the Commission may apply
22 the provisions of Chapter 53, Occupations Code, to determine whether or not the applicant is
23 eligible for a new or renewal license, or registry listing, under the BEA. Generally, for purposes

1 of applying Chapter 53, the Commission will consider an applicant's deferred adjudication for a
2 gambling or gambling-related offense, or a criminal fraud offense, to be a conviction in accordance
3 with §53.021(d), Occupations Code.

4 (e) Because the Commission has a duty to exercise strict control and close supervision over the
5 conduct of Charitable Bingo to ensure that bingo is fairly conducted and the proceeds derived from
6 bingo are used for an authorized purpose, and, because bingo games are largely cash-based
7 operations providing opportunities for individuals to have access to cash and/or products that may
8 be exchanged for cash, the Commission finds that prohibited acts under the BEA and convictions
9 for offenses that call into question an applicant's honesty, integrity, or trustworthiness in handling
10 funds or dealing with the public, directly relate to the duties and responsibilities of licensed and
11 registered activities under the BEA. The Commission deems convictions (including deferred
12 adjudications and/or nolo contendere pleas) for certain misdemeanor and felony offenses to
13 directly relate to the fitness of a new or renewal applicant for a license or registry listing under the
14 BEA. Such offenses include the following:

15 (1) Penal Code, Chapter 30, Burglary and Criminal Trespass, with the exception of:

16 (A) Penal Code, §30.05, Criminal Trespass; and

17 (B) Penal Code, §30.06, Trespass by Holder of License to Carry Concealed
18 Handgun;

19 (2) Penal Code, Chapter 31, Theft, with the exception of:

20 (A) Penal Code, §31.07, Unauthorized Use of a Vehicle;

21 (B) Penal Code, §31.12, Theft of or Tampering with Multichannel Video or
22 Information Services;

1 (C) Penal Code, §31.13, Manufacture, Distribution, or Advertisement of
2 Multichannel Video or Information Services Device; and

3 (D) Penal Code, §31.14, Sale or Lease of Multichannel Video or Information
4 Services Device;

5 (3) Penal Code, Chapter 33, Computer Crimes, with the exception of:

6 (A) Penal Code, §33.05, Tampering With Direct Recording Electronic Voting
7 Machine; and

8 (B) Penal Code, §33.07, Online Impersonation;

9 (4) Penal Code, Chapter 34, Money Laundering;

10 (5) Penal Code, Chapter 36, Bribery and Corrupt Influence, with the exception of Penal
11 Code, §36.07, Acceptance of Honorarium;

12 (6) Penal Code, Chapter 37, Perjury and Other Falsification;

13 (7) Penal Code, Chapter 71, Organized Crime; and

14 (8) Any offense committed, including in another state or Federal jurisdiction involving
15 substantially similar conduct as an offense in the applicable sections of Penal Code, Chapters 30,
16 31, 33, 34, 36, 37, 71, or the BEA.

17 (f) In determining whether a criminal conviction directly relates to the duties and responsibilities
18 of the licensed or registered activity under the BEA, the following factors will be considered:

19 (1) The nature and seriousness of the crime;

20 (2) The relationship of the crime to the purposes for which the individual seeks to engage
21 in the regulated conduct;

22 (3) The extent to which the regulated conduct might offer an opportunity to engage in
23 further criminal activity of the same type as the previous conviction;

1 (4) The relationship of the conviction to the capacity required to perform the regulated
2 conduct; and

3 (5) Any other factors appropriate under Chapters 53 or the BEA, including whether a
4 history of multiple convictions or serious conviction(s) would cause an applicant to pose a threat
5 to the safety of bingo participants or workers.

6 (g) Except for convictions involving gambling or gambling-related offenses, a conviction, deferred
7 adjudication, or nolo contendere plea for a Class C misdemeanor, or traffic offenses, and similar
8 offenses in other state or Federal jurisdictions with a similar range of punishment as a Class C
9 misdemeanor, will not be considered to be a disqualifying offense for purposes of this section.

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

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

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

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

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

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

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

21 (7) other evidence of the person's fitness, including letters of recommendation and
22 veteran's status, including discharge status. [~~Pursuant to Chapter 53, Occupations Code, the~~
23 ~~Commission may consider mitigating factors in addition to criminal convictions to determine~~

1 ~~whether an applicant is eligible for a new or renewal license or registry listing. Such mitigating~~
2 ~~factors include:~~

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

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

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

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

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

9 (i) Upon notification of the Commission's intent to deny a new or renewal application or registry
10 listing, an applicant may provide documentation of mitigating factors that the applicant would like
11 the Commission to consider regarding its application. Such documentation must be provided to
12 the Commission no later than 20 days after the Commission provides notice to an applicant of a
13 denial, unless the deadline is extended in writing or through e-mail by authorized Commission
14 staff.

15 (j) Upon the Commission's determination that an applicant is not eligible for a new or renewal
16 license or registry listing because of a disqualifying criminal conviction or other criminal offense,
17 the Commission shall take action authorized by statute or Commission rule.

18 (k) A denial or suspension of a new or renewal application under this section may be contested by
19 the applicant pursuant to §402.700 of this chapter.

20 (l) The Director shall issue guidelines relating to the practice of the Commission under Chapter
21 53, Occupations Code, and this section, and may issue amendments to the guidelines as the
22 Director deems appropriate, consistent with §53.025.

23 §402.706. Schedule of Sanctions.

(a) The purpose of this section is to provide guidance for administering sanctions to licensees and other persons that violate the Bingo Enabling Act and/or the Charitable Bingo Administrative Rules. The Schedule of Sanctions attached to §402.706(c) provides a list of the most common violations and the sanctions generally assessed for those violations, though the Commission may deviate from the schedule if it has a reasonable basis to do so. The objectives for applying sanctions are to protect the public, encourage compliance with the Bingo Enabling Act and the Charitable Bingo Administrative Rules, deter future violations, offer opportunities for rehabilitation as appropriate, punish violators, and deter others from committing violations. This section is intended to promote consistent sanctions for similar violations, facilitate timely resolution of cases and encourage settlements.

(b) The Commission, through the Director of the Charitable Bingo Operations Division or their designee, may offer settlements to persons charged with violating the Bingo Enabling Act and/or the Charitable Bingo Administrative Rules.

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

Figure: 16 TAC §402.706(c)

Standard Administrative Penalty Chart

Category 1

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

\$0 (Warning) to \$1,000 and/or license suspension, revocation or denial, or registry removal 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 <u>second business day following the day of the bingo occasion on which the receipts were obtained.</u> [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.

1 **Category 5**

2 **\$0 (Warning) to \$200 for the 1st offense**

3 **\$0 (Warning) to \$300 for the 2nd offense**

4 **\$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.

5 **Category 6**

6 **\$0 (Warning) to \$100 for the 1st offense**

7 **\$0 (Warning) to \$150 for the 2nd offense**

8 **\$0 (Warning) to \$200 for the 3rd offense**

No.	Violation
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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.

Category 7

\$0 (Warning) for the 1st offense

\$0 (Warning) for the 2nd offense

\$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.

(d) The following words and terms, when used in this section and §402.707, shall have the following meanings, unless the context clearly indicates otherwise:

(1) Bingo Enabling Act--Occupations Code, Chapter 2001.

(2) Charitable Bingo Administrative Rules--Texas Administrative Code, Title 16, Part 9, Chapter 402.

(3) Licensee--a person issued a license under Occupations Code, Chapter 2001, or a Unit.

(4) Organization--a licensee, an applicant for a license, or a person required to obtain a bingo license.

(5) Respondent--a person responsible for answering a charge of violating the Bingo Enabling Act and/or the Charitable Bingo Administrative Rules.

1 (6) Sanctions--revocation and suspension of a license, denial or an original or renewal
2 application, denial of a bingo worker registry application, removal from the registry of bingo
3 workers, administrative penalty, and warning letter.

4 (e) The Commission shall render the final decision in a contested case and has the responsibility
5 to assess sanctions against licensees who are found to have violated the Bingo Enabling Act and/or
6 the Charitable Bingo Administrative Rules. The Commission welcomes any recommendation of
7 an administrative law judge as to the appropriate sanctions imposed, but the Commission is not
8 necessarily bound by such recommendations. A determination of the appropriate sanction is
9 reserved to the Commission consistent with the Bingo Enabling Act.

10 (f) Additional remedies may be imposed along with or in lieu of sanctions, which may include: a
11 redeposit of funds to the bingo account; a removal of funds from the bingo account; or a
12 disbursement of net proceeds in order to comply with the charitable distribution requirement.

13 (g) A settlement agreed to under this section shall be in the form of a written Memorandum of
14 Agreement and Consent Order prepared by the Commission that must be signed by both parties.
15 A Memorandum of Agreement and Consent Order shall contain findings of fact and conclusions
16 of law. The conditions of the settlement, including the imposition of sanctions, shall be completed
17 within the time frame provided for in the settlement. Failure to comply with the conditions of the
18 settlement may subject the respondent to further administrative action.

19 (h) The list of violations in the Schedule of Sanctions is not an exclusive list of violations of the
20 Bingo Enabling Act or the Charitable Bingo Administrative Rules.

21 (i) If a person is charged with a repeat violation within 36 months (3 years) of a previous violation,
22 then the sanction for a repeat violation will be imposed according to the Schedule of Sanctions for
23 repeat violations.

1 (j) The sanction(s) imposed will be determined by considering the following factors, as applicable:

2 (1) seriousness of the violation which includes the nature, circumstances, extent and gravity
3 of the prohibited acts;

4 (2) history of previous violations which includes:

5 (A) the number of previous violations; and

6 (B) the number of repeated violations;

7 (3) the action(s) necessary to deter future violations;

8 (4) efforts to correct the violation after awareness of the violation through personal
9 knowledge or notification by the commission;

10 (5) any other matter that justice may require, including:

11 (A) whether the violation was intentional, inadvertent, simple negligence, gross
12 negligence, or the unavoidable result of a related violation;

13 (B) cooperation with the Commission during its examination, audit, or investigation
14 of the person;

15 (C) length of time the licensee has held a license;

16 (D) risk to the public or state;

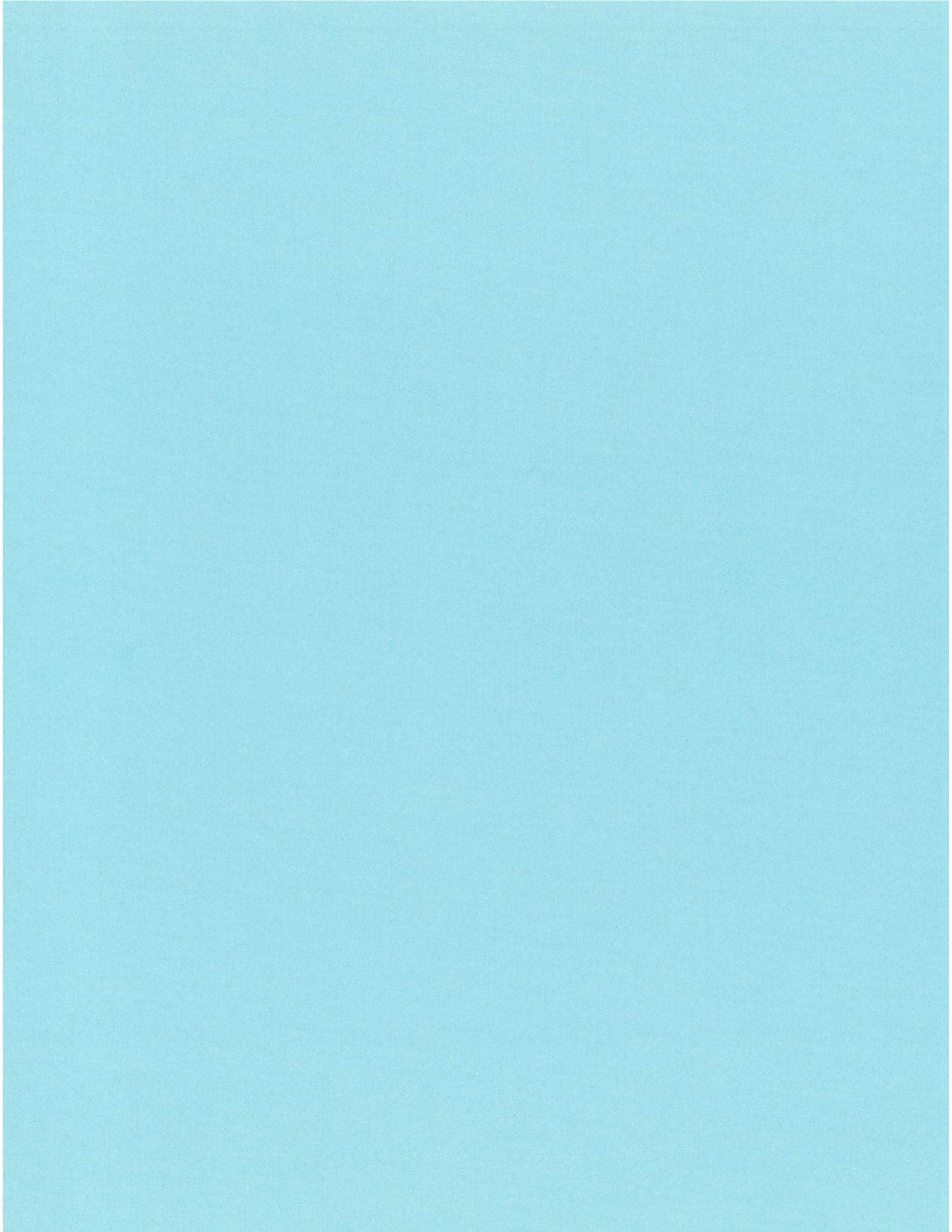
17 (E) whether the organization or person has acknowledged a violation and agreed to
18 comply with the terms and conditions of remedial action through an agreed settlement with the
19 Commission; and

20 (F) the cost of the investigation, examination or audit associated with the violation.

21 (k) If the Director or the Director's designee and the authorized representative for the respondent
22 agree, the two parties may utilize §402.707, Expedited Administrative Penalty Guideline as
23 alternative guidance related to this subsection.

1 (l) The Commission may impose lesser sanctions than those listed in the Schedule of Sanctions for
2 a particular violation if mitigating circumstances exist, including mitigating circumstances
3 described in §402.706(j)(5)(A) - (E).

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to implement this chapter and any other law establishing a program regulated by the Department.

The statutory provisions affected by the proposed rules are those set forth in Texas Occupations Code, Chapters 51, 202, 401, 402, 1302, and 1305. No other statutes, articles, or codes are affected by the proposed rules.

§60.306. Request for Hearing and Defaults.

(a) If, within twenty days after receiving a Notice of Alleged Violation or notice of continuation of restrictions on a license, the respondent fails to accept the department's determination and recommended administrative penalty, sanction, or both, or fails to make a written request for a hearing on the determination, the department may propose entry of a default order against the respondent unless otherwise provided by applicable law. There is a rebuttable presumption that notice is received three days after the notice was mailed.

(b) If [Where] a respondent fails to answer to the Notice of Alleged Violation or notice of continuation of restrictions on a license, the department may present to the commission or the executive director a motion for default order along with a proposed default order containing findings of fact and conclusions of law. Respondents will be notified as to the time and place the motion for default order will be considered. If a respondent attends at the time and place prescribed in the notice, an administrative hearing may be set.

(c) - (d) (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 October 14, 2019.

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Brad Bowman

General Counsel

Texas Department of Licensing and Regulation

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For further information, please call: (512) 463-8179



PART 9. TEXAS LOTTERY COMMISSION

CHAPTER 402. CHARITABLE BINGO OPERATIONS DIVISION

The Texas Lottery Commission (Commission) proposes 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). 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 al-

low 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.

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 more flexibility for bingo conductors, to provide more convenience to bingo players, to make more people eligible for occupational licensure, 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 allow for a decrease in prize fees paid, but do not require an increase or decrease in prize 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 November 6, 2019, at 611 E. 6th Street, Austin, Texas 78701.

SUBCHAPTER B. CONDUCT OF BINGO

16 TAC §402.200, §402.203

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.

This proposal is intended to implement Texas Occupations Code, Chapter 2001.

§402.200. General Restrictions on the Conduct of Bingo.

(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.

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

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

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

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

- (A) all regularly scheduled games to be played;
- (B) the order in which the games will be played;
- (C) the patterns needed to win;
- (D) the prize(s) to be paid for each game, including the value of any non-cash bingo prizes as set in subsections (f) and (g) of this section;
- (E) whether the prize payout is based on sales or attendance;
- (F) the entrance fee and the number of cards associated with the entrance fee, if any; and
- (G) the price of each type of bingo card offered for sale.

(4) The licensed authorized organization may amend the game schedule during the bingo occasion to correctly reflect any changes to game play during that occasion provided that the amendments are announced to the patrons and documented, in writing, on the game schedule. If not otherwise prohibited by law, the licensed authorized organization may conduct a bingo game that was not originally listed on the game schedule if the game and the prize(s) to be awarded for that game are announced to the patrons prior to the start of the game and documented, in writing, on the game schedule. Upon completion of the bingo occasion, the final game schedule must properly account for all games played during that occasion and the prizes awarded for those games. The final game schedule shall be maintained pursuant to §402.500(a) of this title (relating to General Records Requirements).

(j) [(i)] Reservation of bingo cards. No licensed authorized organization may reserve, or allow to be reserved, any bingo card or cards for use by a bingo player.

(k) [(j)] Bingo worker requirements

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

(2) A bingo worker shall not:

- (A) communicate verbally, or in any other manner, to the caller the number(s) or symbol(s) needed by any player to win a bingo game;
- (B) require anything of value from players, other than payment, for bingo cards, electronic card minding devices, pull-tab bingo tickets, and supplies; or

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

(l) [(k)] Caller requirements. The caller shall:

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

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

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

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

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

(4) announce:

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

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

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

(D) the number of winners for the game.

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

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

(m) [(l)] Verification.

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

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

(B) After the caller closes the game, a winning disposable paper card or an electronic representation of the card for each game shall also be posted on the licensed premises where it may be viewed in detail by the players until at least 30 minutes after the completion of the last bingo game of that organization's occasion.

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

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

(B) Availability of this additional verification, done as a request from players, shall be made known either verbally prior to

the bingo occasion, printed on the playing schedule, or included with the bingo house rules.

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

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

(1) a pull-tab bingo game; or

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

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

§402.203. Unit Accounting.

(a) - (h) (No change.)

(i) Unit Bingo Account.

(1) The unit must establish and maintain one checking account designated as the "bingo account." The unit must maintain the "bingo account" in compliance with the same provisions of the Bingo Enabling Act and Charitable Bingo Administrative Rules applicable to a licensed authorized organization.

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

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

(A) proceeds from the conduct of bingo;

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

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

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

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

(j) - (k) (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 October 11, 2019.

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Bob Biard

General Counsel

Texas Lottery Commission

Earliest possible date of adoption: November 24, 2019

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

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SUBCHAPTER C. BINGO GAMES AND EQUIPMENT

16 TAC §402.300

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.

This proposal is intended to implement Texas Occupations Code, Chapter 2001.

§402.300. *Pull-Tab Bingo.*

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

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

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

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

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

- (A) a form number of a specific pull-tab bingo game;
- (B) the name of the pull-tab bingo game;
- (C) the total card count of the pull-tab bingo game;
- (D) the cost per pull-tab bingo ticket;

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

(F) the name of the manufacturer or trademark.

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

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

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

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

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

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

- (A) the name of the pull-tab bingo game;
- (B) the form number of the pull-tab bingo game;
- (C) the total card count of the pull-tab bingo game;
- (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 collectible 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.

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

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

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

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

(b) - (d) (No change.)

(e) Sales and redemption.

(1) Instant pull-tab bingo tickets from a single deal may be sold by a licensed authorized organization over multiple occasions. A licensed authorized organization may bundle pull-tab bingo tickets of different form numbers and may sell those bundled pull-tab tickets during their licensed times. Pull-tab tickets may be sold up to one hour before an occasion, but they may only be redeemed during an occasion. [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.]

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

(3) For a licensed authorized organization that conducts bingo through a unit created and 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 pull-tab bingo ticket prizes awarded over those occasions as prizes awarded for the final occasion. The aggregate total sales for the licensed authorized organization must be recorded on the cash register or point of sale station.

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

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

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

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

- (A) date of sale;
- (B) quantity sold;
- (C) cost per each deal of pull-tab bingo game sold;
- (D) form number and serial number of each pull-tab bingo game's deal;
- (E) name and address of the purchaser; and
- (F) Texas taxpayer number of the purchaser.

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

(h) (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.

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Bob Biard

General Counsel

Texas Lottery Commission

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

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SUBCHAPTER D. LICENSING REQUIREMENTS

16 TAC §402.402

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.

This proposal is intended to implement Texas Occupations Code, Chapter 2001.

§402.402. *Registry of Bingo Workers.*

(a) - (q) (No change.)

(r) A provisional employee must:

(1) immediately stop working:

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

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

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

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

(s) (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.

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Bob Biard

General Counsel

Texas Lottery Commission

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



SUBCHAPTER E. BOOKS AND RECORDS

16 TAC §§402.500, 402.503, 402.511

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.

This proposal is intended to implement Texas Occupations Code, Chapter 2001.

§402.500. *General Records Requirements.*

(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 [;] §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 [;] and prizes [and prize fees] associated with missing or unaccounted for disposable bingo cards and pull-tab bingo tickets.

(d) - (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.

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SUBCHAPTER G. COMPLIANCE AND ENFORCEMENT

16 TAC §402.702, §402.706

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.

This proposal is intended to implement Texas Occupations Code, Chapter 2001.

§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.

(h) 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.)

§402.706. *Schedule of Sanctions.*

(a) - (b) (No change.)

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

Figure: 16 TAC §402.706(c)

[Figure: 16 TAC §402.706(e)]

(d) - (l) (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.

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TITLE 19. EDUCATION

PART 1. TEXAS HIGHER EDUCATION COORDINATING BOARD

CHAPTER 1. AGENCY ADMINISTRATION SUBCHAPTER BB. TEXAS APPLICATION FOR STATE FINANCIAL AID ADVISORY COMMITTEE

19 TAC §§1.9100 - 1.9106

The Texas Higher Education Coordinating Board proposes new sections in Chapter 1, Subchapter BB, §§1.9100 - 1.9106 concerning the establishment of an advisory committee to assist the board in adopting the procedures to allow a person to complete and submit the application for state financial aid by electronic submission through the website of the state common application as mandated by Texas Education Code Section 61.07762.

R. Jerel Booker, J.D., Assistant Commissioner for College Readiness and Success, has determined that for each year of the first five years the sections are in effect, there will not be any fiscal implications to state or local government as a result of enforcing or administering the rules.

Mr. Booker has also determined that for each of the first five years the sections are in effect, the public benefit anticipated as a result of administering the sections will be impact on students who apply for state financial aid, school districts who advise stu-