





# INTEROFFICE MEMO

*Gary Grief, Executive Director*

*Tom Hanson, Charitable Bingo Operations Director*

**To:** Robert G. Rivera, Chairman  
Cindy Fields, Commissioner  
Mark A. Franz, Commissioner  
Erik C. Saenz, Commissioner  
Jamey Steen, Commissioner

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

**Date:** October 1, 2020

**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), §402.300 (Pull-Tab Bingo), §402.301 (Bingo Card/Paper), §402.400 (General Licensing Provisions), §402.401 (Temporary License), §402.404 (License Classes and Fees), §402.408 (Designation of Members), §402.420 (Qualifications and Requirements for Conductor's License), §402.450 (Request for Waiver), §402.451 (Operating Capital), §402.502 (Charitable Use of Net Proceeds Recordkeeping), §402.511 (Required Inventory Records), §402.601 (Interest on Delinquent Tax), §402.602 (Waiver of Penalty, Settlement of Prize Fees, Rental Tax, Penalty and/or Interest), §402.700 (Denials; Suspensions; Revocations; Hearings), §402.702 (Disqualifying Convictions), and §402.703 (Audit Policy)

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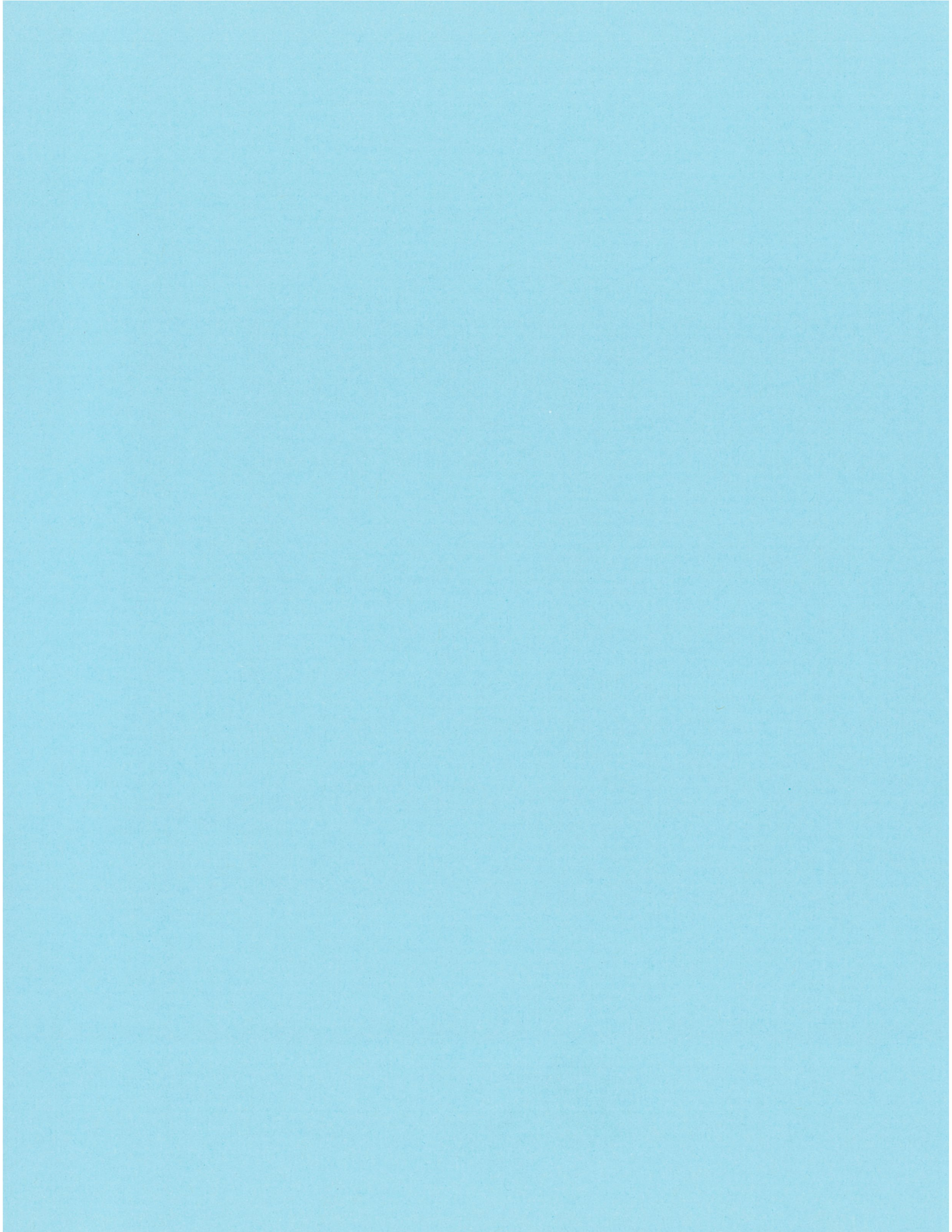
Attached is a draft submission to the *Texas Register* to adopt amendments to the referenced bingo rules, with changes to the proposed text as published in the August 21, 2020 issue of the *Texas Register* (45 TexReg 5724) (also attached). The rule amendments are a result of both the Commission's recent rule review conducted in accordance with Texas Government Code §2001.039, and several stakeholder meetings between Commission staff and various representatives of the bingo community, including the Bingo Advisory Committee, Texas Charity Advocates, the Bingo Interest Group, Conservative Texans for Charitable Bingo, and the Department of Texas, Veterans of Foreign Wars.

As discussed in greater detail in the preamble to the attached proposal, the amendments include updates and clarifications of certain terms and remove references and citations that are no longer applicable. The amendments implement procedural guidelines related to temporary suspensions that are required by the Bingo Enabling Act (BEA) and implement procedural changes for processing incomplete license applications that will conserve limited staff resources. The amendments remove record keeping requirements and other restrictions found to be unnecessary to the agency's purpose of ensuring that bingo is conducted fairly and that proceeds go to charities. Finally, the amendments allow organizations to accept and award donated prizes and to conduct a bingo occasion using a temporary license without having to display verification from the Commission that it received notification of the occasion, all permissible changes that the bingo industry believes will help generate proceeds for charities.

A public comment hearing was held on Wednesday, September 9, 2020, at 9:00 a.m. via Zoom webinar. The Bingo Interest Group, represented by Steve Bresnen, provided oral and written comments generally supportive of the proposed amendments but would like to see additional explanation in the preamble regarding the applicability of Rule 402.700(b), and recommended modification of Rule 402.450 regarding waivers, to clarify what should be included in a waiver request and a credible business plan. The Bingo Interest Group also recommended creating a presumption that a business plan is credible if it contains certain information and the organization has not been granted a waiver in the previous three years. Department of Texas, Veterans of Foreign Wars, represented by Kim Kiplin, provided oral and written comments generally supportive of the proposed amendments but recommended removing Penal Code Chapter 22, Assaultive Offenses, from the list of directly related offenses. Ms. Kiplin also supported the comments made by the Bingo Interest Group. Texas Charity Advocates, represented by Tom Stewart, provided oral comments supportive of the proposed amendments and the changes recommended by the Bingo Interest Group. Additionally, on September 15, 2020, both the Bingo Interest Group and Texas Charity Advocates provided comments that they support the Department of Texas, Veterans of Foreign Wars recommendation to remove Assaultive Offenses from the list of directly related offenses. On September 21, 2020, Juan Garza, Jr., Chairman for the Kickapoo Traditional Tribe of Texas, submitted a comment opposing the adoption of proposed Rule 402.503(j) related to electronic gift cards.

The rules recommended for adoption include changes to the proposed version made in response to the public comments. Rule 402.450 has been modified to include more specific descriptions of what is included and considered in a waiver application and a credible business plan. Rule 402.700 has been modified to provide that prior to a temporary suspension, a licensee will be given the opportunity to remove the person with the disqualifying criminal background from the organization. Rule 402.702 has been modified to remove Penal Code Chapter 22, Assaultive Offenses, from the list of directly related offenses. Finally, Rule 402.503(j) has been removed from the rule adoption packet.

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





1           The Texas Lottery Commission (Commission) adopts amendments to 16 TAC §§ 402.200  
2 (General Restrictions on the Conduct of Bingo), 402.300 (Pull-Tab Bingo), 402.301 (Bingo  
3 Card/Paper), 402.400 (General Licensing Provisions), 402.401 (Temporary License), 402.404  
4 (License Classes and Fees), 402.408 (Designation of Members), 402.420 (Qualifications and  
5 Requirements for Conductor's License), 402.450 (Request for Waiver), 402.451 (Operating  
6 Capital), 402.502 (Charitable Use of Net Proceeds Recordkeeping), 402.511 (Required Inventory  
7 Records), 402.601 (Interest on Delinquent Tax), 402.602 (Waiver of Penalty, Settlement of Prize  
8 Fees, Rental Tax, Penalty and/or Interest), 402.700 (Denials; Suspensions; Revocations;  
9 Hearings), 402.702 (Disqualifying Convictions), and 402.703 (Audit Policy) with changes to the  
10 proposed text as published in the August 21, 2020 issue of the *Texas Register* (45 TexReg 5724).  
11 The rules include changes to the proposed version made in response to the public comments. Rule  
12 402.450 has been modified to include more specific descriptions of what is included and  
13 considered in a waiver application and a credible business plan. Rule 402.700 has been modified  
14 to provide that prior to a temporary suspension, a licensee will be given the opportunity to remove  
15 the person with the disqualifying criminal background from the organization. Rule 402.702 has  
16 been modified to remove Penal Code Chapter 22, Assaultive Offenses, from the list of directly  
17 related offenses. Finally, proposed Rule 402.503(j) related to electronic gift cards has been  
18 removed from the rule adoption packet.

19           The rule amendments are a result of both the Commission's recent rule review conducted  
20 in accordance with Texas Government Code §2001.039, and several stakeholder meetings between  
21 Commission staff and various representatives of the bingo community, including the Bingo  
22 Advisory Committee, Texas Charity Advocates, the Bingo Interest Group, Conservative Texans  
23 for Charitable Bingo, and the Department of Texas, Veterans of Foreign Wars. The Commission

1 solicited from these representatives any proposed rule changes desired by the bingo community  
2 and the proposed changes were discussed at length in the meetings. Many of the bingo  
3 community's proposed changes are reflected in this rulemaking proposal, as are certain other  
4 changes identified in the rule review and/or desired by the Commission.

5 The amendments include updates and clarifications of certain terms and remove references  
6 and citations that are no longer applicable. The amendments implement procedural guidelines  
7 related to temporary suspensions that are required by the Bingo Enabling Act (BEA) and  
8 implement procedural changes for processing incomplete license applications that will conserve  
9 limited staff resources. The amendments remove record keeping requirements and other  
10 restrictions found to be unnecessary to the agency's purpose of ensuring that bingo is conducted  
11 fairly and that proceeds go to charities. Finally, the amendments allow organizations to accept and  
12 award donated prizes, and to conduct a bingo occasion using a temporary license without having  
13 to display verification from the Commission that it received notification of the occasion, all  
14 permissible changes that the bingo industry believes will help generate proceeds for charities.

15 The amendments to Rule 402.200(h) provide that any licensed authorized organization,  
16 rather than just those with a non-annual license, may accept or award donated prizes. The  
17 amendments to Rule 402.200(i)(4) remove the requirement that organizations maintain final game  
18 schedules in their records.

19 The amendments to Rule 402.300(b)(4) will eliminate the requirement that manufacturers  
20 submit a specified number of pull-tab tickets to the Commission for testing after the ticket artwork  
21 has been approved. The amendments to Rule 402.301(a)(3) and (11) will clarify that a bonus  
22 number can be any number on a bingo card so long as the number is identified as such prior to the  
23 start of a bingo game.

1           The amendments to Rule 402.400(e) provide that an incomplete original application will  
2   be returned, rather than denied, 21 days after the Commission requests more information if the  
3   applicant fails to respond; amendments to Rule 402.400(l) provide that a license may be placed in  
4   administrative hold at any time, rather than only at the time of license renewal; amendments to  
5   Rules 402.401(b)(3) and §402.401(d)(3)(D) remove the requirement that a conductor display  
6   verification from the Commission during a temporary bingo occasion, thus allowing for the use of  
7   temporary-on-demand licenses; amendments to Rule 402.404 remove references to organization  
8   license fees, which no longer exist; amendments to Rule 402.408 allow for a designated member  
9   of an organization to renew and print licenses online; amendments to Rule 402.420 correct the  
10   requirements for licensure of authorized organizations related to time-in-existence; amendments  
11   to Rule 402.450 provides clarification on what information a waiver request should include and  
12   provides that a business plan will be presumed credible if it includes that information and the  
13   requesting organization has not been granted a waiver in the previous three years; and amendments  
14   to Rule 402.451(b)(2) provide that bingo account calculations will include prize fees held in the  
15   bingo account to be paid to local governments or charitable accounts.

16           The amendments to Rule 402.502(c)(5) and (6) provide clarification that organizations  
17   may, but are not required to, maintain certain documentation for all charitable distributions; and  
18   amendments to Rule 402.511 provide that the Commission will create a form for maintaining  
19   perpetual inventory that organizations may use.

20           The amendments to Rules 402.601 and 402.602 remove all references to rental and gross  
21   receipts taxes because they are no longer collected.

22           Amendments to Rule 402.700(b) provide for a temporary suspension process and  
23   guidelines. In response to comments requesting additional information regarding the applicability

1 of this rule, and accordance with Tex. Occ. Code 2001.105, this process will apply to any  
2 organization with an officer, board member, or employee with a gambling or fraud conviction. In  
3 accordance with Tex. Occ. Code 2001.154, 202, and 207, this process will apply to any commercial  
4 lessor, manufacturer, or distributor that has a person required to be named on the license  
5 application with a gambling or fraud conviction. Rule 402.700(b) has also been modified to  
6 provide that, in the cases described above, the Director will give the licensee the opportunity to  
7 remove the disqualifying person prior to ordering a temporary suspension.

8 Finally, amendments to Rule 402.702(c)(2) correct a citation to the Texas Code of Criminal  
9 Procedure; amendments to Rule 402.702(d) provide that the Commission “may” treat certain  
10 deferred adjudications as convictions, rather than doing so “generally”; amendments to Rule  
11 402.702(e) add manufacture, delivery, or possession with the intent to deliver of a controlled  
12 substance to the list of directly related offenses; and amendments to Rule 402.703(c)(3) and (d)(2)  
13 provide that audits will be completed within one year of an entrance conference and that  
14 organizations will be provided with no more than two letters requesting records in an audit.

15 A public comment hearing was held on Wednesday, September 9, 2020, at 9:00 a.m. via  
16 Zoom webinar and several persons provided oral and written comments. Additionally, on  
17 September 15, 2020, both the Bingo Interest Group and Texas Charity Advocates provided  
18 comments that they support the Department of Texas, Veterans of Foreign Wars recommendation  
19 to remove Assaultive Offenses from the list of directly related offenses. On September 21, 2020,  
20 the Commission received a written comment from the Kickapoo Traditional Tribe of Texas  
21 opposing the proposed rule on electronic gift cards.

22 COMMENT: Steve Bresnen, Bingo Interest Group: The Bingo Interest Group generally  
23 supports the rule amendments but would like to see additional explanation in the preamble



1 regarding the applicability of Rule 402.700(b). Mr. Bresnen also suggests a more substantial  
2 revision to Rule 402.450 to provide more specificity to organizations requesting waivers.  
3 Historically, the Commission's grants or denials of waiver requests have not followed any  
4 discernable pattern so that applicants cannot reasonably gauge when a plan will be approved or  
5 not. In addition, the current rules do not guide the nonprofit organizations that conduct bingo with  
6 sufficient specificity to consistently prepare business plans that are both feasible, realistic and  
7 targeted toward resolving their financial difficulties. For example, the current rules talk about goals  
8 but not the activities to achieve the goal. Some applications are bare-bones, while others are highly  
9 detailed. The proposed changes are meant to reduce the potential for arbitrariness and be both  
10 more specific and targeted toward specific activities that will achieve the goal: net proceeds.  
11 Additionally, the Bingo Interest Group agrees with the recommendations made by the Department  
12 of Texas, Veterans of Foreign Wars regarding the removal of Penal Code Chapter 22, Assault  
13 Offenses, from the list of directly related offenses.

14 RESPONSE: Commission staff has added information about the application of Rule  
15 402.700(b) in the discussion above and has modified the rule to provide licensees with an  
16 opportunity to remove a disqualifying person prior to the order of temporary suspension.  
17 Commission staff has modified Rule 402.450 to conform with the comments made by the Bingo  
18 Interest Group, with additional language providing that the three-year look-back period on  
19 previously granted waivers will not include any waivers granted due to force majeure.

20 COMMENT: Kim Kiplin, Department of Texas, Veterans of Foreign Wars: The  
21 Department of Texas, Veterans of Foreign Wars generally supports the rule amendments but asks  
22 that the Commission not add Penal Code Chapter 22, Assaultive Offenses, to the list of directly  
23 related offenses for the purpose of disqualifying applicants to the bingo worker registry. Most

1 incidents of assault have little to no bearing on a person's fitness to work in the bingo industry,  
2 and preventing an applicant, particularly a veteran, with such a criminal history from engaging in  
3 full employment at a bingo hall is detrimental to their reintegration into civilian life. Further,  
4 adopting a rule that makes assault convictions disqualifying is arguably outside the agency's  
5 limited authority to ensure that bingo is fairly conducted, and the proceeds derived from bingo are  
6 used for an authorized purpose. An employer can choose to employ someone with an assault  
7 conviction, but the Commission should not be using its regulatory authority to make that decision.  
8 Ms. Kiplin also recommends changes to the agency's processing of applicants and licensees with  
9 criminal backgrounds that is beyond the scope of this rule making.

10 RESPONSE: Commission staff agrees with this comment and recommends not adding  
11 Penal Code Chapter 22, Assaultive Offenses, to the list of directly related offenses, as suggested  
12 by the Department of Texas, Veterans of Foreign Wars and supported by the Commission's Bingo  
13 Advisory Committee, Texas Charity Advocates and the Bingo Interest Group. Commission staff  
14 has engaged with Ms. Kiplin and other industry representatives, and will continue to do so,  
15 regarding the agency's processing of applicants and licensees with criminal backgrounds.

16 COMMENT: Tom Stewart, Texas Charity Advocates: Texas Charity Advocates generally  
17 supports the rule amendments as written and supports the changes suggested by both the Bingo  
18 Interest Group and the Department of Texas, Veterans of Foreign Wars.

19 RESPONSE: Commission staff has modified Rule 402.450 as suggested by the Bingo  
20 Interest Group and has removed Assaultive Offenses from the list of directly related offenses as  
21 suggested by the Department of Texas, Veterans of Foreign Wars.

22 COMMENT: Juan Garza, Jr., Chairman for the Kickapoo Traditional Tribe of Texas: The  
23 Kickapoo Traditional Tribe of Texas requests that the Commission delete the proposed amendment

1 adding Rule 402.503(j) allowing electronic gift cards, because it runs the risk of opening the door  
2 for bingo devices that allow credits to be accumulated and replayed like a slot machine. There is  
3 no language in the proposed rule that imposes restrictions to prevent the accumulation of credits.  
4 Additionally, the Rule's use of the phrase "or otherwise" is vague and may allow for using  
5 electronic gift cards as a means for a player to accrue credits and play with them.

6 RESPONSE: In proposing this amendment, the Commission was not authorizing  
7 electronic gift cards that could be used to accumulate credits for replay or to otherwise emulate a  
8 slot machine. Upon further consideration of the potential technical issues surrounding this  
9 proposal, the Commission will not include this proposed amendment in the final rule adoption.  
10 The Commission's Bingo Advisory Committee recommends this subject be considered in future  
11 rulemaking with the input from the commenter and bingo industry stakeholders.

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

16 §402.200. General Restrictions on the Conduct of Bingo.

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

21 (b) Inspection and use of equipment.

22 (1) All bingo equipment is subject to inspection at any time by any representative of the  
23 Commission. No person may tamper with or modify or allow others to tamper with or modify any

bingo equipment in any manner which would affect the randomness of numbers chosen or which changes the numbers or symbols appearing on the face of a bingo card. A licensed authorized organization has a continuing responsibility to ensure that all bingo equipment used by it is in proper working condition.

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

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

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

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

(A) bingo equipment malfunctions; and

(B) improper bingo ball calls or placements.

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

(1) owned by a licensed authorized organization;

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

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

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

(d) All bingo games must be conducted and prizes awarded on the days and within the times specified on the license to conduct bingo. If a circumstance occurs that would cause a regular bingo



1 game to continue past the time indicated on the license, the licensed authorized organization may  
2 complete the regular bingo game. A written record detailing the circumstance that caused the bingo  
3 game to continue past the time indicated on the license must be maintained by the organization for  
4 forty-eight (48) months.

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

8 (f) Merchandise prizes. Any merchandise or other non-cash prize, including bingo equipment,  
9 awarded as a bingo prize shall be valued at its current retail price. However, a non-cash prize  
10 awarded as a bingo prize may be valued at the price actually paid for that prize provided that the  
11 licensed authorized organization maintains a receipt or other documentation evidencing the actual  
12 price paid.

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

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

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

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

22 (A) how the game will be played;

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

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

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

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

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

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

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

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

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

16 (C) the patterns needed to win;

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

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

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

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

1 (4) The licensed authorized organization may amend the game schedule during the bingo  
2 occasion to correctly reflect any changes to game play during that occasion provided that the  
3 amendments are announced to the patrons and documented, in writing, on the game schedule. If  
4 not otherwise prohibited by law, the licensed authorized organization may conduct a bingo game  
5 that was not originally listed on the game schedule if the game and the prize(s) to be awarded for  
6 that game are announced to the patrons prior to the start of the game and documented, in writing,  
7 on the game schedule. Upon completion of the bingo occasion, the final game schedule must  
8 properly account for all games played during that occasion and the prizes awarded for those games.

9 ~~[The final game schedule shall be maintained pursuant to §402.500(a) of this title (relating to~~  
10 ~~General Records Requirements).]~~

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

13 (k) Bingo worker requirements.

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

16 (2) A bingo worker shall not:

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

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

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

23 (l) Caller requirements. The caller shall:

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

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

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

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

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

7 (4) announce:

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

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

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

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

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

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

21 (m) Verification.



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

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

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

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

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

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

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

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

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

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

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

4 §402.300. Pull-Tab Bingo.

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

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

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

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

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

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

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

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

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

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

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

20 (5) Form Number--The unique identification number assigned by the manufacturer to a  
21 specific pull-tab bingo game. A form number may be numeric, alpha, or a combination of numeric  
22 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.

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

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

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

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

11 (A) a designated payout; or

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

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

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

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

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

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



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

5 (2) All pull-tab bingo ticket color artwork with a letter of introduction including style of  
6 play must be presented to the Commission's Austin, Texas location for review. The manufacturer  
7 must submit one complete color positive or hardcopy set of the color artwork for each pull-tab  
8 bingo ticket and its accompanying flare. The color artwork may be submitted in an electronic  
9 format prescribed by the Commission in lieu of the hardcopy submission. The submission must  
10 include the payout schedule. The submission must show both sides of a pull-tab bingo ticket and  
11 must be submitted on an 8 1/2" x 11" size sheet. The color artwork will show the actual size of the  
12 ticket and a 200% size of the ticket. The color artwork will clearly identify all winning and non-  
13 winning symbols. The color artwork will clearly identify the winnable patterns and combinations.

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

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

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

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

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

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

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

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

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

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

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

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

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

4           (1) Upon inspection of a pull-tab bingo ticket by the Commission, if it is deemed not to  
5 properly preserve the integrity or security of the Commission including compliance with the art  
6 work requirements of this rule, the Commission may disapprove a pull-tab bingo ticket. All pull-  
7 tab bingo tickets that are disapproved by the Commission will cease to be allowed for sale until  
8 such time as the manufacturer complies with the written instructions of the Commission, or until  
9 any discrepancies are resolved. Disapproval of and prohibition to use, purchase, sell or otherwise  
10 distribute such a pull-tab bingo ticket is effective immediately upon notice to the manufacturer by  
11 the Commission. Upon receipt of such notice, the manufacturer must immediately notify the  
12 distributor and the distributor must immediately notify affected licensed authorized organizations  
13 to cease all use, purchase, sale or other distribution of the disapproved pull-tab ticket. The  
14 distributor must provide to the Commission, within 15 days of the Commission's notice to the  
15 manufacturer, confirmation that the distributor has notified the licensed authorized organization  
16 that the pull-tab ticket has been disapproved and sale and use of the disapproved ticket must cease  
17 immediately.

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

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

4 (d) Manufacturing requirements.

5 (1) Manufacturers of pull-tab bingo tickets must manufacture, assemble, and package each  
6 deal in such a manner that none of the winning pull-tab bingo tickets, nor the location, or  
7 approximate location of any winning pull-tab bingo ticket can be determined in advance of opening  
8 the deal by any means or device. Nor should the winning pull-tab bingo tickets, or the location or  
9 approximate location of any winning pull-tab bingo ticket be determined in advance of opening  
10 the deal by manufacture, printing, color variations, assembly, packaging markings, or by use of a  
11 light. Each manufacturer is subject to inspection by the Commission, its authorized representative,  
12 or designee.

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

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

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

4 (5) A flare must accompany each deal.

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

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

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

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

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

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

22 (12) Pull-tab bingo tickets must:

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

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

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

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

12 (E) be designed so that the lines or arrows that identify the winning symbol  
13 combinations will be a minimum of  $\frac{5}{32}$  inch from the open edge farthest from the hinge of the  
14 dye-cut window perforations;

15 (F) be designed so that highlighted "pay-code" designations that identify the  
16 winning symbol combinations will be a minimum of  $\frac{3.5}{32}$  ( $\frac{7}{64}$ ) inch from the dye-cut window  
17 perforations;

18 (G) be designed so that secondary winner protection codes appear in the left margin  
19 of the ticket, unless the secondary winner protection codes are randomly generated serial number-  
20 type winner protection codes. Randomly generated serial number-type winner protection codes  
21 will be randomly located in either the left or middle column of symbols and will be designed so  
22 that the numbers are a minimum of  $\frac{3.5}{32}$  ( $\frac{7}{64}$ ) inch from the dye-cut window perforations. Any

1 colored line or bar or background used to highlight the winner protection code will be a minimum  
2 3.5/32 (7/64) inch from the dye-cut window perforations;

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

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

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

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

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

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

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

19 (e) Sales and redemption.

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

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

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

10          (4) For a licensed authorized organization that conducts bingo on consecutive occasions  
11     within one day, the organization or organizations within a unit may sell or redeem event pull-tab  
12     tickets from a deal during either occasion and may account for and report all of the pull-tab bingo  
13     ticket sales and prizes for the occasions as sales and prizes for the final occasion.

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

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

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



1 (8) A winning instant pull-tab bingo ticket must be presented for payment during the  
2 licensed authorized organization's bingo occasion(s) at which the instant pull-tab bingo ticket is  
3 available for sale.

4 (9) The licensed authorized organization's gross receipts from the sale of pull-tab bingo  
5 tickets must be included in the reported total gross receipts for the organization, except that an  
6 organization or organizations within a unit that conducts consecutive bingo occasions during one  
7 day may account for and report all of the pull-tab bingo ticket sales for the occasions as sales for  
8 the final occasion. An organization or unit that chooses to account for pull-tab bingo ticket sales  
9 for consecutive bingo occasions during one day as sales for the final occasion must also account  
10 for pull-tab bingo ticket prizes awarded over those occasions as prizes awarded for the final  
11 occasion. Each deal of pull-tab bingo tickets must be accounted for in sales, prizes or unsold cards.

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

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

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

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

23 (g) Records.

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

4           (2) Licensed authorized organizations must show the sale of pull-tab bingo tickets, prizes  
5     that were paid and the form number and serial number of the pull-tab bingo tickets on the occasion  
6     cash report, except that an organization or organizations within a unit that conducts consecutive  
7     bingo occasions during one day may account for and report all of the pull-tab bingo ticket sales  
8     for the occasions as sales for the final occasion. An organization or unit that chooses to account  
9     for pull-tab bingo ticket sales for consecutive bingo occasions during one day as sales for the final  
10    occasion must also account for pull-tab bingo ticket prizes awarded over those occasions as prizes  
11    awarded for the final occasion. The aggregate total sales for the licensed authorized organization  
12    must be recorded on the cash register or point of sale station.

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

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

21          (5) If a deal is removed from play and marked for destruction then all redeemed and unsold  
22    pull-tab bingo tickets of the deal must be retained by the licensed authorized organization for a

1 period of four years from the date the deal is taken out of play or until the destruction of the deal  
2 is witnessed by the Commission, its authorized representative or designee.

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

6 (A) date of sale;

7 (B) quantity sold;

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

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

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

11 (F) Texas taxpayer number of the purchaser.

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

13 (h) Style of Play. The following pull-tab bingo tickets are authorized by this rule. A last sale feature  
14 can be utilized on any pull-tab bingo ticket.

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

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

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

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

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

7 (6) Event Ticket. A form of pull-tab bingo that utilizes some subsequent action to determine  
8 the event ticket winner(s), such as a drawing of ball(s), spinning wheel, opening of a seal on a  
9 flare(s) or any other method approved by the Commission so long as that method has designated  
10 numbers, letters, or symbols that conform to the randomly selected numbers or symbols. When a  
11 flare is used to determine winning tickets, the flare shall have the same form number and serial  
12 number as the event tickets. Pull-tab bingo tickets used as event tickets must contain more than  
13 two instant winners.

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

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

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

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

2 §402.301. Bingo Cards/Paper.

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

5 (1) Bingo card/paper. A hard card, disposable bingo card/paper, shutter card, or any other  
6 bingo card/paper approved by the Commission.

7 (2) Bingo hard card. A device made of cardboard, plastic or other suitable material that is  
8 intended for repeated use of the bingo card at multiple bingo occasions.

9 (3) Bonus number(s). A number or numbers on any type of bingo card/paper ~~[that has an~~  
10 ~~identified number or numbers]~~ which when called could result in an additional prize awarded.  
11 Bonus number(s) must be announced prior to the start of a bingo game.

12 (4) Braille bingo card. A device that contains raised symbols that reflect numbers on a  
13 reusable card.

14 (5) Break-open bingo. A type of disposable bingo card/paper that is sealed, that conceals  
15 the bingo card/paper face, that may be folded, and where the bingo game or a portion of the bingo  
16 game has been pre-called.

17 (6) Case. A receptacle that contains bingo card/paper products.

18 (7) Cut. Indicates the direction in which a sheet of faces will be cut from the master sheet  
19 of disposable bingo card/paper. A cut can be square, horizontal or vertical. The sheet of disposable  
20 bingo card/paper printed by the manufacturer of a specific group of disposable bingo card/paper  
21 that can be subdivided vertically or horizontally into sheets.

22 (8) Defective. Bingo card/paper missing specifications as originally approved by the  
23 Commission.

1 (9) Disposable bingo card/paper. A sheet or sheets of paper that is designed or intended for  
2 use at a single bingo occasion.

3 (10) Double numbers. Bingo card/paper with two numbers in each of the 24 spaces on each  
4 face.

5 (11) Face. A specific configuration of numbers, symbols, or blank squares imprinted on  
6 paper, cardboard, or other materials, and designed to be used to conduct bingo games. The bingo  
7 card/paper normally consists of five rows of five columns that may bear 24 pre-printed numbers  
8 between 1 and 75, symbols, or blank squares, except for the center square which is a free space  
9 and have the letters B-I-N-G-O appear in order above the five columns. [~~with the exception of~~  
10 ~~bonus number(s) that may appear on the bingo card/paper.~~]

11 (12) Free space. The center square on the face of a bingo card/paper.

12 (13) Loteria. A type of bingo that utilizes symbols or pictures. Normally playing cards are  
13 utilized instead of numbered balls.

14 (14) Multi-part card/paper. A type of disposable bingo card/paper where the player selects  
15 the numbers. The player retains one part of the disposable bingo card/paper while the licensee for  
16 the purpose of verification retains the other part of the disposable bingo card/paper.

17 (15) On. The number of faces imprinted on a sheet of disposal bingo card/paper after it is  
18 cut. The number of bingo card/paper faces normally precedes this term.

19 (16) Pre-marked. A bingo card/paper where one or more of the numbers are already marked  
20 or identified prior to the start of the game.

21 (17) Product line. A specific type of bingo card/paper, identifiable by features or  
22 characteristics that are unique when compared to other bingo card/paper manufactured by the  
23 manufacturer.

1 (18) Serial number. The unique identification number assigned by the manufacturer to a  
2 specific product line of bingo card/paper.

3 (19) Series number. The specific number assigned by the manufacturer that identifies the  
4 unique configuration of numbers that appears on an individual bingo card/paper face.

5 (20) Sheet. A single piece of paper that contains one or more disposable bingo card/paper  
6 faces.

7 (21) Shutter card. A device made of cardboard or other suitable material with plastic  
8 "shutters" that cover a number to simulate the number being daubed.

9 (22) UP. The number of sheets of disposable bingo paper glued together by the  
10 manufacturer. The number of sheets normally precedes this term.

11 (23) UPS pads. A bound collection of disposable bingo card/paper where each sheet in the  
12 collection is used to play a separate bingo game during the occasion.

13 (b) Approval of bingo card/paper.

14 (1) Bingo card/paper shall not be sold in the state of Texas, nor furnished to any person in  
15 this state, nor used for play in this state until the manufacturer of the bingo card/paper has received  
16 written approval for use within the state of Texas by the Commission. The manufacturer at its own  
17 expense must present the bingo card/paper to the Commission for approval.

18 (2) A letter of introduction including the style of play must be presented to Commission  
19 headquarters for review. The manufacturer must submit one complete color positive or sample for  
20 each type of bingo card/paper. The color positive or sample may be submitted in an electronic  
21 format prescribed by the Commission in lieu of the hardcopy submission. The color positive or  
22 sample bingo card/paper must:

1 (A) bear on the face of every disposable bingo card/paper used, sold, or furnished  
2 in this state an impression of the State of Texas and a star of five points encircled by olive and live  
3 oak branches and the words "Texas Lottery Commission," in accordance with detailed  
4 specification, available on request from the Commission. The face of each disposable bingo  
5 card/paper must also have printed on it in a conspicuous location the name of the manufacturer or  
6 trademark, which has been filed with the Commission; and

7 (B) contain the serial and series numbers assigned by the manufacturer on the face  
8 of each of the bingo card/paper, except in the case of Break-open bingo, which may contain the  
9 serial number assigned by the manufacturer on the outside so as not to be concealed.

10 (3) The bingo card/paper may contain numbers or symbols so long as the numbers or  
11 symbols preserve the integrity of the Commission. The Commission will not approve any bingo  
12 paper that displays images or text that could be interpreted as depicting violent acts, profane  
13 language, or provocative, explicit, or derogatory images or text, as determined by the Commission.  
14 All images or text are subject to final approval by the Commission.

15 (4) If the bingo card/paper is approved the manufacturer will be notified of the approval.  
16 This approval only extends to the specific bingo card/paper submitted and will be cited in the  
17 Commission's approval letter. If the bingo card/paper is modified in any way, with the exception  
18 of the color, series number, and/or serial number it must be resubmitted to the Commission for  
19 approval.

20 (5) The Commission may require resubmission of an approved bingo card/paper at any  
21 time.

22 (6) If an approved bingo card/paper is discontinued or no longer manufactured for sale in  
23 Texas, the manufacturer must provide the Commission written notification within ten days of



1 discontinuance or cessation of manufacturing for sale in Texas. The written notification may be  
2 sent to the Commission via facsimile, e-mail, delivery services or postal delivery.

3 (c) Disapproval of bingo card/paper.

4 (1) After inspection of the bingo card/paper by the Commission, if the bingo card/paper  
5 does not comply with the provisions of this rule and/or the Bingo Enabling Act, the Commission  
6 shall disapprove the bingo card/paper and shall notify the manufacturer of the disapproval. Any  
7 bingo card/paper that is disapproved by the Commission may not be displayed, purchased or sold  
8 in the state of Texas. Disapproval of and prohibition to use, purchase, sell or otherwise distribute,  
9 is effective immediately upon notice to the manufacturer by the Commission.

10 (2) A manufacturer shall not sell, or furnish unapproved bingo card/paper to anyone,  
11 including another manufacturer or distributor for use in this state. A manufacturer shall not sell, or  
12 furnish bingo card/paper not bearing the seal of the Commission on the face of the bingo card/paper  
13 and the manufacturer's name or trademark to distributors for use in this state. This requirement  
14 also applies to any manufacturer who assembles bingo card/paper for sale in Texas.

15 (3) A licensed authorized organization shall not purchase, obtain, or use disapproved bingo  
16 card/paper in this state.

17 (4) If the manufacturer modifies the bingo card/paper that was previously disapproved, the  
18 manufacturer may resubmit the modified bingo card/paper for Commission approval. At any time  
19 the manufacturer may withdraw any disapproved bingo card/paper from further consideration.

20 (5) The Commission may disapprove the bingo card/paper at any stage of review. The  
21 disapproval of the bingo card/paper is administratively final.

22 (d) Manufacturing requirements.

23 (1) Bingo card/paper must comply with the following construction standards.

1 (A) The disposable paper used shall be of sufficient weight and quality to allow for  
2 clearly readable numbers and to prevent ink from spreading or bleeding through an UPS pad  
3 thereby obscuring other numbers or bingo card/paper;

4 (B) series numbers may be displayed in the center square of the bingo card/paper;

5 (C) numbers printed on the bingo card/paper shall be randomly assigned; and

6 (D) a manufacturer shall not repeat a serial number on or in the same product line,  
7 series, and color of bingo card/paper within one year of the last printing of that serial number.

8 (2) UPS pad must comply with the following construction standards.

9 (A) Bingo card/paper in UPS pads must only be glued and not stapled; and

10 (B) the disposable bingo card/paper assembled into UPS pads shall not be  
11 separated, with the exception of the multi-part disposable bingo card/paper, nor shall single sheets  
12 already manufactured be cut for sale for special bingo games.

13 (3) Inspection. The Commission, its authorized representative or designee may examine  
14 and inspect any individual bingo card/paper or series of bingo card/paper and may pull all  
15 remaining bingo card/paper in the inventory if the Commission, its authorized representative or  
16 designee determines that the bingo card/paper is defective or has not been approved.

17 (4) Packaging.

18 (A) Bingo card/paper shall be sealed in shrink wrap and be designed so that if the  
19 shrink wrapped bingo card/paper, package, or case was opened or tampered with, it would be easily  
20 noticed.

21 (B) Barcodes may be included on each bingo card/paper, package, or case provided  
22 the barcode contains information required in subparagraph (C).

1 (C) A label shall be placed on, or be visible from, the exterior of each package or  
2 case of bingo card/paper listing the following information:

- 3 (i) Type of product;
- 4 (ii) Series number of the UPS pads and/or sheet(s);
- 5 (iii) Serial numbers of the top sheet of the UPS pads and/or sheet(s);
- 6 (iv) Number of package or cases; and
- 7 (v) Cut and color of paper.

8 (D) A packing slip shall be included with the package or case listing the following  
9 information:

- 10 (i) Type of product;
- 11 (ii) Number of UPS pads or sheets;
- 12 (iii) Series number of the UPS pads and/or sheet(s);
- 13 (iv) Serial numbers of the top sheet of the UPS pads and/or sheet(s);
- 14 (v) Number of package or cases; and
- 15 (vi) Cut and color of paper.

16 (e) Records.

17 (1) Manufacturers and distributors must provide the following information on each invoice  
18 and other documents used in connection with a sale, return or any other type of transfer of bingo  
19 card/paper:

- 20 (A) Date of sale;
- 21 (B) Quantity sold and number of faces per sheet;
- 22 (C) Serial and series number of each bingo card/paper sold;
- 23 (D) Name and address of the purchaser; and

1 (E) Texas taxpayer identification number of the purchaser.

2 (2) Manufacturers and distributors must maintain standard accounting records that include  
3 but are not limited to:

4 (A) Sales invoice;

5 (B) Credit memos;

6 (C) Sales journal; and

7 (D) Purchase records.

8 (3) Licensed authorized organization.

9 (A) A licensed authorized organization must maintain a disposable bingo  
10 card/paper sales summary showing the organization's name, taxpayer number, distributor's  
11 taxpayer number, invoice date, distributor's name, invoice number, serial number, and series  
12 number. Also, the disposable bingo card/paper sales summary must include the number of faces  
13 (ON), number of sheets (UP), and color of borders.

14 (B) A licensed authorized organization must show the date of the occasion on which  
15 the disposable bingo card/paper was sold, a beginning inventory, along with the number of  
16 disposable bingo card/paper sold.

17 (C) A licensed authorized organization must maintain a perpetual inventory of all  
18 disposable bingo card/paper.

19 (D) Disposable bingo card/paper marked for destruction cannot be destroyed until  
20 witnessed by the Commission, its authorized representative or designee. All destruction  
21 documentation must be retained by the licensed organization for a period of four years from the  
22 date of destruction.

1 (4) All records identified in this subsection must be retained for a period of four years from  
2 creation of the records.

3 (f) Braille cards. Visually impaired, legally blind, or persons with disabilities may use their own  
4 personal Braille cards when the authorized organization does not provide Braille Cards. Players  
5 using Braille cards shall pay the equivalent price to participate in the game. The authorized  
6 organization shall have the right to inspect, and to reject any personal Braille card(s). Braille cards  
7 are not required to be approved by the Commission. Braille cards are not considered bingo  
8 equipment as defined by Occupations Code, §2001.002(5).

9 (g) Loteria. The symbols or pictures may be identified with Spanish subtitles and each of the 54  
10 cards contains a separate and distinct symbol or picture. The 54 individual cards may be shuffled  
11 by the caller and then randomly drawn and announced to the players. The player uses a loteria  
12 card, which contains a minimum of sixteen squares and each square has one of the 54 symbols or  
13 pictures. There are no duplicate symbols or pictures on the loteria card. Loteria cards are not  
14 considered bingo equipment as defined by Occupations Code, §2001.002(5).

15 (h) Style of play and minimum standards of play. Prizes awarded on any style of play must be in  
16 accordance with Occupations Code, §2001.420.

17 (1) Player pick ems. A game of bingo where a player selects his/her own numbers  
18 on a multi-part duplicated disposable bingo card/paper. One copy is retained by the player and  
19 used as a bingo card/paper while the other copy is provided to the organization for verification  
20 purposes.

21 (2) Progressive bingo. A game of bingo that either the established prize amount or  
22 number of bingo balls and/or objects may be increased from one session to the next scheduled  
23 session. If no player completes the required pattern within the specified number of bingo balls or

objects drawn, the established prize amount may be increased but shall not exceed the prize amount authorized by the Bingo Enabling Act.

(3) Warm-up or early bird. A bingo game conducted at the beginning of a bingo occasion during the authorized organization's license times, in which prizes are awarded based upon a percentage of the sum of money received from the sale of the warm-up/early bird bingo card/paper.

(4) Shaded/Images bingo. Bingo card/paper that incorporates images where one or more squares on a bingo card/paper face are shaded. Each shaded image conforms to a pattern that must be achieved to win a bingo game or each shaded square may be used as a free space or a pattern for a bingo game.

(5) Bingo bonus number(s). A bingo game that has additional identified number(s) in excess of the 24 numbers that appear on the bingo card/paper face that, when called, could result in an additional prize awarded. The first player who matches the numbers shown on the bonus number(s) line within the specified number(s) called wins the additional prize.

(6) Multi level or multi tier. Bingo card/paper that has one or more additional lines of number(s) aside from the normal five lines that when played could result in an additional prize. Therefore, a multi level or multi tiered game could be played on this bingo card/paper that provides more opportunities to win.

(7) Multi color bingo. A bingo game played on a bingo card/paper with a different color for each bingo card/paper face. Prizes are awarded based on the color on which the bingo card/paper face that had the bingo.

(8) Pre-called. A game of bingo where the numbers for the game have been pre-called and identified prior to the start of the game.

1 (9) Double number. A bingo game played on a bingo card/paper that has two numbers per  
2 square. A player has two chances to daub each square.

3 (10) Break-open bingo. A type of bingo game played on sealed disposable bingo  
4 card/paper, where the bingo card/paper face is concealed, that may be folded, and where the bingo  
5 game has been pre-called. The bingo game may not be pre-called prior to the authorized  
6 organization's license time.

7 (11) Regular bingo. A bingo game played on the standard card face of five rows by five  
8 columns with 24 pre-printed numbers between 1 and 75, symbols, or blank squares and a free  
9 space square where the winner is determined by a predetermined pattern.

10 (i) Promotional bingo. This rule shall not apply to bingo card/paper furnished for use in a  
11 promotional bingo game conducted in accordance the Occupations Code, §2001.551. The  
12 card/paper may not contain the Commission seal.

13 (j) Exempt organization. This rule shall not apply to bingo card/paper furnished for use by an  
14 organization receiving an exemption from bingo licensing in accordance with the Occupations  
15 Code, §§2001.551(b)(3)(A) and (B). The bingo card/paper may not contain the Commission seal.

16 (k) House rules. A licensed authorized organization playing a style of bingo other than regular  
17 bingo must develop house rules on how the game is played. The house rules must be made  
18 available to the public.

19 (l) Card-minding devices. This rule shall be applicable only to bingo card/paper made of paper,  
20 cardboard or similar material approved by the Commission and shall not be applicable to the  
21 manufacture or use of card-minding devices addressed in §§402.321 - 402.328 of this chapter, with  
22 the exception of style of play as defined by this rule and approved by the Commission.

23 §402.400. General Licensing Provisions.

1 (a) Any person who wants to engage in a bingo related activity shall apply to the Commission for  
2 a license. The application must be on a form prescribed by the Commission and all required  
3 information must be legible, correct and complete. The initial submittal of an application is  
4 incomplete if the following information is not provided:

5 (1) All information requested on the application form and supplemental forms;

6 (2) All supplemental information requested during the pre-licensing investigation period;

7 (3) The applicable license fee for a lessor, distributor, or manufacturer; and

8 (4) Authorized signatures as required by the Commission.

9 (b) Information submitted by an applicant on an applicable form shall be considered to be part of  
10 the application. Supplemental information should be submitted on a form prescribed by the  
11 Commission and all information required must be correct and complete.

12 (c) Information submitted by an applicant in a format other than an applicable form must be legible  
13 and must include the following:

14 (1) the name and address of the organization as it appears on the application;

15 (2) the Texas taxpayer identification number; or, if sole owner, the individual's social  
16 security number;

17 (3) a statement identifying the information submitted;

18 (4) the signature, printed name and telephone number of the person authorized to submit  
19 the information; and

20 (5) all supplemental information requested during the pre-licensing investigation period.

21 (d) Within 21 calendar days after the Commission has received an original application, the  
22 Commission will review the application and notify the applicant if additional information is  
23 required.



1 (e) If an application is incomplete, the Commission will notify the applicant and, if applicable, the  
2 applicant's bingo hall. The applicant must provide the requested information within 21 calendar  
3 days of such notification. If the applicant fails to respond within 21 calendar days of the  
4 notification, the application will be deemed incomplete and returned to the applicant. [~~Failure to~~  
5 ~~provide the requested information within the 21-calendar day time line or providing incomplete~~  
6 ~~information may result in the denial of the license application.~~]

7 (f) For an application to conduct bingo, an organization may choose to submit the application form  
8 without including a bond or other security; information regarding previously held licenses; justice  
9 precinct, city or county certification; and information on intended playing location, days, times,  
10 and starting date.

11 (1) All other information requested on the application and the accompanying supplements  
12 must be complete and in compliance with all other requirements of the Bingo Enabling Act and  
13 the Charitable Bingo Administrative Rules.

14 (2) Within a number of calendar days required by the Commission on the applicable forms,  
15 the organization must remit the required bond or other security to the Commission and inform the  
16 Commission on the applicable supplemental forms of the intended playing location, days, times,  
17 and starting date of the occasions. If the organization fails to provide the required bond or other  
18 security as well as complete and accurate supplement forms within the required timeframe, the  
19 Commission will deny the application.

20 (3) An organization that has submitted the appropriate bond or other security and a  
21 complete application, including all applicable supplemental forms, must also submit updated,  
22 certified meeting minutes, current as of the submission of the applicable supplemental information,  
23 stating that the organization voted to conduct bingo at the licensed location.

1 (g) Prior to the issuance of a license, the Commission may require an applicant to attend a pre-  
2 licensing interview. The Commission will identify the person or persons for the applicant who  
3 must attend the pre-licensing interview. The pre-licensing interview will consist of, at a minimum,  
4 the following:

5 (1) review of the Bingo Enabling Act;

6 (2) review of the Charitable Bingo Administrative Rules;

7 (3) licensee responsibilities;

8 (4) process pertaining to the different types of license application;

9 (5) bookkeeping and record keeping requirements as it involves bingo; and

10 (6) a statement from the person or persons attending the pre-licensing interview that they  
11 are aware of and will comply with the provisions of the Bingo Enabling Act and the Charitable  
12 Bingo Administrative Rules.

13 (h) The Commission may deny an application based on information obtained that indicates non-  
14 compliance with the provisions of the Bingo Enabling Act and/or the Charitable Bingo  
15 Administrative Rules in connection with a pre-licensing interview and/or location inspection.

16 (i) Each licensed authorized organization issued a temporary authorization is required to file timely  
17 and complete required reports, as applicable to the type of licensing activity requested.

18 (j) A license applicant may withdraw an application at any time prior to the approval or denial of  
19 the application. Once the written request for withdrawal is received by the Commission, all  
20 processing of the application will cease and the withdrawal is considered final. License application  
21 fees for withdrawn license applications will be refunded, as provided for in the Bingo Enabling  
22 Act. If the organization wants to reapply for a license, a complete new application and new license  
23 fee, if applicable, are required.

1 (k) Voluntary surrender of a license.

2 (1) A licensee may surrender its license for cancellation provided it has completed and  
3 submitted to the Commission the prescribed form.

4 (2) If surrendering a license to conduct bingo, the prescribed form must be signed by the  
5 bingo chairperson.

6 (3) If surrendering any other type of license, the prescribed form must be signed by the sole  
7 owner, or by two officers, directors, limited liability corporation members, or partners of the  
8 organization.

9 (4) The cancellation of the license shall be final and effective upon receipt by the Charitable  
10 Bingo Operations Division of a copy of the resolution, or other authoritative statement of the  
11 licensee, requesting cancellation of the license and providing a requested effective date.

12 (A) The cancellation is effective as of the date identified in the letter provided that  
13 the date has not passed.

14 (B) If no date is identified in the letter, or the date has passed, the effective date  
15 shall be the date the Commission receives the letter.

16 (5) Notwithstanding cancellation of the license, the licensee must file all reports, returns  
17 and remittances required by law.

18 (6) The licensee shall surrender the license to the Commission on the effective date of the  
19 surrender.

20 (7) The Commission will send the licensee a letter confirming the surrender and resulting  
21 cancellation of the license.

22 (l) Administrative Hold. A licensed authorized organization or commercial lessor, other than an  
23 association of licensed authorized organizations, may request to place its regular license in

1 administrative hold at any time. [~~but only at the time of license renewal, as provided in §402.411~~  
2 ~~of this Chapter.~~]

3 (1) The placement of a license in administrative hold shall be effective on the first day of  
4 the license period for which the administrative hold is requested.

5 (2) The licensee shall submit the license in administrative hold, or a certified statement that  
6 the license is not available, to the Commission no later than seven (7) calendar days after the  
7 effective date of the placement of the license in administrative hold.

8 (3) Once the license has been placed in administrative hold, all bingo activity (i.e. leasing,  
9 conducting bingo) must cease until the licensee files an amendment and the amended license is  
10 issued by the Commission and received by the licensee. A licensed authorized organization with  
11 its regular license in administrative hold may not conduct bingo under a temporary license.

12 (4) Notwithstanding placement of the license in administrative hold, the licensee must file  
13 with the Commission:

14 (A) all applicable reports, returns and remittances required by law; and

15 (B) a timely and complete application for renewal of the license each time the  
16 license is ripe for renewal.

17 (5) If at the time of license renewal a licensed authorized organization does not have a  
18 designated playing location, that license will be placed in administrative hold.

19 (6) Except for licensed commercial lessors subject to §2001.152(b) of the Occupation  
20 Code, a license may not be in administrative hold for more than twelve (12) consecutive quarters.

21 (7) The fee for a license in administrative hold is set in §402.404(d)(3) of this Chapter.

1 (8) A license may be removed from administrative hold at any time during a license period.

2 To remove a license from administrative hold, the licensee must file a license amendment  
3 application as provided in §2001.306 of the Occupations Code and §402.410 of this Chapter.

4 (m) Each person required to be named in an application for license under the Bingo Enabling Act  
5 other than a temporary license will have a criminal record history inquiry at state and/or national  
6 level conducted. Such inquiry may require submission of fingerprint card(s). FBI fingerprint cards  
7 are required for an individual listed in an application for a distributor or manufacturer's license and  
8 for an individual listed on an application who is not a Texas resident. A criminal record history  
9 inquiry at the state and/or national level may be conducted on the operator and officer or director  
10 required to be named in an application for a non-annual temporary license under the Bingo  
11 Enabling Act.

12 (n) Representation; personal receipt of documents. For purposes of this subsection, an individual  
13 shall be recognized by the Commission as an applicant or licensee's authorized representative only  
14 if the applicant or licensee has filed with the Commission a form prescribed by the Commission  
15 identifying the individuals currently listed as directors, officers, or operators, or if they are  
16 identified on the completed Authorization of Representation for Bingo Licenses form. A person is  
17 not an authorized representative of the applicant or licensee unless specifically named on a form  
18 prescribed by the Commission as part of the application, or on the Authorization of Representation  
19 for Bingo Licenses form that is on file with the Commission. Only those persons specifically  
20 named on a form prescribed by the Commission or on the Authorization of Representation for  
21 Bingo Licenses form as an authorized representative shall be recognized by the Commission  
22 concerning any matter relating to the licensing process or license. Only the applicant or licensee

1 or its authorized representative may receive from the Commission documents relating to the  
2 application or license without being required to submit a request under the Public Information Act.

3 §402.401. Temporary License.

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

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

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

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

13 (b) General.

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

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

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

23 (4) Voluntary surrender of regular license.

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

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

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

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

15 (d) Regular license holder.

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

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

20 (3) The Commission may issue a temporary license to a regular license holder without  
21 listing the specific date or time of a bingo occasion. The temporary bingo occasion must be  
22 conducted at the same location as shown on the organization's regular license. Such a license shall  
23 be referred to as a "temporary-on-demand license".

1 (A) The regular license holder must submit an application on the prescribed form  
2 that indicates the number of temporary-on-demand ~~[temporary]~~ licenses requested for the license  
3 period.

4 (B) Before using a temporary-on-demand license, the ~~[The]~~ regular license holder  
5 must notify the Commission of the date and time the temporary license will be used by submitting  
6 a form prescribed by the Commission. The Commission will verify receipt of the notice in  
7 accordance with Bingo Enabling Act §2001.103(g). The license holder is not required to display  
8 the Commission's verification during the occasion but must maintain it in their records pursuant  
9 to §402.500(a) of this title (relating to General Records Requirements).

10 (C) Any temporary-on-demand ~~[temporary]~~ license ~~[issued without the specific~~  
11 ~~date or time identified]~~ must be used prior to the expiration date of the regular license in effect at  
12 the time the temporary license application was filed.

13 ~~[(D) The Commission shall provide a verification of receipt of notification that~~  
14 ~~must be posted adjacent to the applicable temporary license during the bingo occasion.]~~

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

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

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



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

3 (5) If the organization is issued the amendment license filed under Occupations Code,  
4 §2001.108 prior to being issued the temporary license, the temporary license application shall be  
5 discontinued.

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

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

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

15 §402.404. License Classes and Fees.

16 (a) Definitions.

17 (1) License period--For purposes of Texas Occupations Code §2001.104 and §2001.158,  
18 the term "license period" means the four full calendar quarters immediately preceding the license  
19 end date.

20 (2) Regular License Classes and Applicable Fee Amount:

21 ~~[(A) There is no annual fee for a license to conduct bingo. The license class related~~  
22 ~~amount used solely by the Commission to estimate the pro rata local share of prize fees related to~~  
23 ~~licenses to conduct bingo shall be as follows:]~~

1                               ~~[(i) Class A (annual gross receipts of \$25,000 or less) — \$132;]~~

2                               ~~[(ii) Class B (annual gross receipts of more than \$25,000 but not more than~~

3     ~~\$50,000) — \$264;]~~

4                               ~~[(iii) Class C (annual gross receipts of more than \$50,000 but not more than~~

5     ~~\$75,000) — \$396;]~~

6                               ~~[(iv) Class D (annual gross receipts of more than \$75,000 but not more than~~

7     ~~\$100,000) — \$528;]~~

8                               ~~[(v) Class E (annual gross receipts of more than \$100,000 but not more than~~

9     ~~\$150,000) — \$792;]~~

10                              ~~[(vi) Class F (annual gross receipts of more than \$150,000 but not more than~~

11     ~~\$200,000) — \$1,188;]~~

12                              ~~[(vii) Class G (annual gross receipts of more than \$200,000 but not more~~

13     ~~than \$250,000) — \$1,584;]~~

14                              ~~[(viii) Class H (annual gross receipts of more than \$250,000 but not more~~

15     ~~than \$300,000) — \$1,980;]~~

16                              ~~[(ix) Class I (annual gross receipts of more than \$300,000 but not more than~~

17     ~~\$400,000) — \$2,640;]~~

18                              ~~[(x) Class J (annual gross receipts of more than \$400,000) — \$3,300.]~~

19                              (A) ~~(B)~~ The annual fee for a commercial lessor license shall be as follows:

20                              (i) Class A (annual gross rentals from licensed organizations of not more

21     than \$12,000) - \$132;

22                              (ii) Class B (annual gross rentals from licensed organizations of more than

23     \$12,000 but not more than \$20,000) - \$264;

(iii) Class C (annual gross rentals from licensed organizations of more than \$20,000 but not more than \$30,000) - \$396;

(iv) Class D (annual gross rentals from licensed organizations of more than \$30,000 but not more than \$40,000) - \$528;

(v) Class E (annual gross rentals from licensed organizations of more than \$40,000 but not more than \$50,000) - \$792;

(vi) Class F (annual gross rentals from licensed organizations of more than \$50,000 but not more than \$60,000) - \$1,188;

(vii) Class G (annual gross rentals from licensed organizations of more than \$60,000 but not more than \$70,000) - \$1,584;

(viii) Class H (annual gross rentals from licensed organizations of more than \$70,000 but not more than \$80,000) - \$1,980;

(ix) Class I (annual gross rentals from licensed organizations of more than \$80,000 but not more than \$90,000) - \$2,640;

(x) Class J (annual gross rentals from licensed organizations of more than \$90,000) - \$3,300.

(B)~~(C)~~ Manufacturer's License. The annual fee for a manufacturer's license shall be \$3,000.

(C)~~(D)~~ Distributor's License. The annual fee for a distributor's license shall be \$1,000.

(b) Original License Application.

(1) Commercial License to Lease Bingo Premises.

1 (A) License fees for an original license to lease bingo premises submitted by an  
2 authorized organization licensed to conduct bingo must be paid from the organization's bingo bank  
3 account.

4 (B) An applicant may be required to submit additional license fees if the estimated  
5 gross rental income used to calculate the license fee is not reasonable when compared to the gross  
6 rental income at similarly situated bingo premises. These comparative amounts are used to  
7 establish the gross rental income amount upon which the applicant's license fee is based and must  
8 be submitted.

9 (2) Understating the anticipated gross receipts or rental income from a licensed activity for  
10 any purpose by an applicant or licensed entity may be grounds for administrative disciplinary  
11 action against the licensee.

12 (c) An organization shall re-estimate its annual gross rental income and submit any balance due in  
13 license fee amount if there is an increase within six months of the issuance of the original lessor  
14 license in:

15 (1) the number of organizations conducting bingo at a licensed location; and

16 (2) the number of bingo occasions conducted at the licensed location.

17 (d) License Renewal Fee.

18 (1) The amount of license fee to be paid upon renewal of a license to lease bingo premises  
19 is the recalculated license fee amount calculated for the preceding license period.

20 (2) If the recalculation of the license fee amount for the previous license period reflects an  
21 underpayment of the license fee amount for that license period, the incremental difference must be  
22 submitted by the organization within 30 days of the license expiration date and before the license  
23 may be renewed.

1 (3) Upon written request by an organization to renew its license to lease bingo premises  
2 that is in or going in administrative hold, the organization shall pay a Class A license renewal fee,  
3 plus any amount due under paragraph (2) of this subsection, in lieu of the recalculated fee amount  
4 from the preceding license period. There is no renewal license fee for an organization renewing its  
5 license to conduct bingo that is in or going in administrative hold, but the license-class-related  
6 amount used solely by the Commission to estimate the pro rata local share of prize fees related to  
7 a license to conduct bingo for such an organization is a Class A fee amount.

8 (4) The Commission may require an amount of license fee in addition to the recalculated  
9 fee at renewal if there is a change in:

10 (A) playing location; or

11 (B) rental amount per occasion.

12 (5) If a commercial lessor or a licensed authorized organization which leases bingo  
13 premises requests its license be placed in administrative hold upon the renewal of its lessor license  
14 and submits the requisite fee as set in paragraph (3) of this subsection, the Commission may require  
15 the commercial lessor to submit an additional license fee when it files the application to amend a  
16 commercial license to lease bingo premises, if the commercial lessor amends its license to begin  
17 leasing bingo premises within the first six months of the license term.

18 (e) Two-Year License Fee Payments. An applicant for a commercial lessor license that is effective  
19 for two years must pay an amount equal to two times the amount of the annual license fee, as set  
20 in §402.404(a)(2).

21 (f) Regular License Class Recalculation.

22 (1) For the purpose of determining the license class recalculation for a license to conduct  
23 bingo or license to lease bingo premises, the annual gross receipts or gross rental income, as

1 applicable, shall be based on the four consecutive quarterly returns due immediately prior to the  
2 license expiration date.

3 (2) For the purposes of determining the license class recalculation for a two year license to  
4 lease bingo premises, each year of the license period shall be recalculated separately. The final  
5 recalculated fee will be the total of the yearly license classes and their associated fees. The annual  
6 gross rental income shall be based on the four consecutive quarterly returns due immediately prior  
7 to the first year period and the four consecutive quarterly returns due immediately prior to the  
8 license expiration date of the second year period.

9 (3) For accounting units, gross receipts used to recalculate the license class apportioned to  
10 a unit member will be calculated by dividing the unit's gross receipts by the total number of  
11 members during the quarter.

12 (4) If an organization fails to file a report for one or more quarter(s) of the license period,  
13 or if there are not four quarters available for any other reason, the Commission shall average the  
14 quarterly gross receipts or gross rental income for the quarter(s) reported to determine the  
15 organization's license class.

16 (5) License no longer exists.

17 (A) Notwithstanding the fact that an organization which leased bingo premises  
18 under a license that ceased to exist for whatever reason, the organization must submit the  
19 recalculated license fee for the period that the organization leased the premises and collected gross  
20 rental income.

21 (B) If an organization ceases to be licensed for whatever reason, all gross receipts  
22 or gross rental income collected (from the period after the last quarterly return used to recalculate  
23 the license class for the prior year) is used to recalculate the final license class, and if appropriate,

1 any fee due. If the organization fails to file a return for any required period(s), an estimated return  
2 will be used. The organization shall submit any balance due after license class recalculation.

3 (6) The Commission may recalculate license classes for up to four consecutive immediately  
4 preceding license periods if a change in an organization's reported gross receipts or gross rental  
5 income occurs as a result of an audit, or if the original recalculation was determined by using  
6 estimated gross receipts or gross rental income.

7 (7) If there is a change in an organization's reported gross receipts or gross rental income,  
8 the organization may submit a written request to the Charitable Bingo Operations Division to  
9 recalculate its license class for up to four immediately preceding license periods.

10 (g) Overpayment of License Fee.

11 (1) An overpayment of a commercial lessor's annual license fee may occur either through  
12 a recalculation of the license fee pursuant to subsection (f) of this section, or if a licensee  
13 mistakenly submits more money than is actually required for the license fee(s). An overpayment  
14 of a manufacturer's or distributor's annual license fee occurs if a licensee mistakenly submits more  
15 money than is actually required for the license fee(s). The Commission will determine whether an  
16 overpayment has occurred on a case by case basis.

17 (2) Upon a determination that an overpayment of an annual license fee has occurred, the  
18 Charitable Bingo Operations Division shall credit the overpayment to the licensee. Overpayments  
19 credited to a licensee may be used for the licensee's outstanding bingo liabilities, including  
20 subsequent license fees, but the credits must be used within four years of the latest date on which  
21 the annual license fee was due. Overpayments credited to a licensee remain eligible for refund  
22 under subsection (h) of this section until the credits are used or the four year refund period expires,  
23 whichever comes first.

1 (3) Overpayments of annual license fees must either be used as credit or claimed for refund  
2 within four years of the latest date on which the annual license fees were due. If a licensee fails to  
3 use the credits or request a refund within this time period, the overpayments will be retained by  
4 the Commission.

5 (h) Refunds.

6 (1) An applicant or licensee may request a refund of the fee for an initial or renewal  
7 commercial lessor's license, initial or renewal distributor's license, or initial or renewal  
8 manufacturer's license if they request withdrawal of the application before the license is issued.  
9 Upon such a request, the Commission will retain the lesser of 50 percent of the fee or \$150 and  
10 refund the rest of the fee within 30 days of receiving the request.

11 (2) If the Commission denies an initial or renewal commercial lessor license application,  
12 initial or renewal distributor's license application, or initial or renewal manufacturer's license  
13 application, it will retain the lesser of 50 percent of the fee or \$150 and refund the rest of the fee  
14 within 30 days of denying the application.

15 (3) A current or former licensee that submits an overpayment of a regular license fee may  
16 be eligible to receive a refund of that overpayment, provided that the licensee or former licensee:

17 (A) submits a complete written request for a refund to the Commission within four  
18 years of the latest date the regular license fees were due;

19 (B) does not have any other outstanding bingo liabilities to the State; and

20 (C) if applicable, files all necessary quarterly reports.

21 (4) Upon the receipt and review of a timely and sufficient refund request, the Commission  
22 may either deny the refund request or certify to the Comptroller of Public Accounts that a refund  
23 is warranted. Pursuant to Government Code §403.077, if the Commission certifies to the



1 Comptroller of Public Accounts that a refund is warranted, the ultimate decision on whether to  
2 grant the refund will still be made by the Comptroller of Public Accounts.

3 (i) Transfer of Commercial License to Lease Bingo Premises.

4 (1) All gross rental income collected in connection with a license to lease bingo premises  
5 that has been transferred during the term of the license shall be used to recalculate the license fee.

6 (2) A license fee credit in connection with a license to lease bingo premises that was  
7 transferred during the term of the license shall be credited to the current license holder at the time  
8 of license renewal.

9 (3) A license fee balance due for a license to lease bingo premises that was transferred  
10 during the term of the license shall be the liability of the current license holder at the time of license  
11 renewal.

12 (j) Temporary Authorization to Conduct Bingo.

13 (1) The amount of gross receipts collected in connection with a temporary authorization is  
14 used to calculate the regular license class.

15 (2) An organization conducting bingo pursuant to a temporary authorization must comply  
16 with the same statutory and administrative rule requirements and quarterly return filing  
17 requirements as an organization which has a regular license to conduct bingo.

18 §402.408. Designation of Members.

19 (a) To designate an individual as a member for purposes of Texas Occupations Code §2001.411(c-  
20 1) and other law, a licensed authorized organization must submit to the Commission a completed  
21 Designated Member form prescribed by the Commission and signed by the bingo chairperson.

22 (b) A licensed authorized organization is responsible for all of the bingo related activities  
23 conducted by its organization's members and designated members.

(c) A designated member or a licensed authorized organization may notify the Commission that the designated member's status has changed and is no longer bona fide by submitting:

(1) a completed form prescribed by the Commission, or

(2) a written notification signed by the bingo chairperson that states that the designated member's status has changed and is no longer bona fide and provides the effective date.

(d) Removal of a designated member from all positions held for the organization is effective on the latter of the date received by the Commission or a date indicated.

(e) A designated member of a licensed authorized organization may access the Bingo Services Portal in order to renew and print licenses.

#### §402.420. Qualifications and Requirements for Conductor's License.

An applicant must provide with its application documentation demonstrating that it meets all qualifications and requirements for a license to conduct bingo based on the type of organization it is. The qualifications, requirements, and necessary documentation for different types of organizations are shown in the chart below.

Figure: 16 TAC §402.420

<b>Religious Society:</b>	
<b>Qualifications and Requirements</b>	<b>Necessary Documentation</b>
Must be organized primarily for religious purposes.	A signed and dated copy of the most recent version of all of the organization's organizing instrument(s);  Or  A copy of the page from the applicant's parent organization religious directory that lists the applicant organization's information.  The name of the applicant organization must match the name of the organization on the documents submitted.

Must have been organized in Texas for at least three years.	<p>A copy of a listing in a publication such as a national roster or newspaper article naming the organization;</p> <p>Or</p> <p>A letter or other document provided or issued to the applicant from a government agency.</p> <p>The documents submitted must reflect the applicant's name, Texas address, and <del>[either be dated three years prior to the application date or]</del> establish <u>at least three years of existence.</u> <del>[the date the organization was founded.]</del></p>
Must demonstrate that the organization has made significant progress toward the accomplishment of its purposes during the 12 months preceding the date of application.	<p>At least three (3) different types of acceptable documents as proof that organization was continuously engaged in furthering its charitable purpose for the time period beginning one year prior to the date the application was signed. Examples of acceptable documentation include copies of:</p> <ol style="list-style-type: none"> <li>1. a letter from the diocese,</li> <li>2. notices of church services, and/or church bulletins,</li> <li>3. canceled checks for clergy salaries, religious books, materials and/or supplies, maintenance of religious building(s), and</li> <li>4. records of marriages performed, or records of funerals performed.</li> </ol> <p>To establish the beginning date, an organization may submit documentation dated up to three months prior to the year before the application was signed in order to prove that the organization has been continuously engaged in furthering its charitable purpose throughout the past twelve months.</p> <p>All documents must be dated and indicate the name of the organization.</p>
Must appoint only the organization's members to serve as operators for the organization.	<p>A current membership list with all officers and directors noted. Officers would include a priest, pastor, rabbi, or other head of the church.</p> <p>Membership list will be compared to persons listed on the application to confirm that only members have been named as operators.</p>
Must ensure that none of the organization's officers, directors and operators have been convicted in any jurisdiction of a	<p>A signed and dated copy of the most recent version of all of the organization's organizing instruments(s) that list the officer and director positions;</p> <p>Or</p> <p>If officers and/or directors are not listed in organizing instruments, a current membership list identifying officers and directors.</p>

gambling or gambling-related offense; and have not been convicted of a criminal fraud offense, with the exception of a criminal fraud offense that is a Class C misdemeanor.	<p>If officer and/or director positions are unfilled, a statement signed by an officer indicating which positions are vacant.</p> <p>The Commission will compare the number of officers and directors included in the documents to the application to ensure all officers and directors have been disclosed.</p> <p>The Department of Public Safety will conduct a criminal history check on all officers, directors, and operators.</p> <p>Any officer, director, or operator not meeting the criminal history background requirement must resign before a license may be issued.</p>
Section 2001.102 License Application Requirements.	<p>Most recent copy of Internal Revenue Service (IRS) Form 990 if organization is required to file it with the IRS.</p> <p>Indicate on application if organization is not required to file Form 990;</p> <p>And</p> <p>If the organization is organized under the law of this state, the organization must be in good standing with the Secretary of State (SOS). The Commission will request additional documentation from the applicant if unable to validate good standing directly with the SOS.</p>
<b>Non-Profit Medical Organization:</b>	
<b>Qualifications and Requirements</b>	<b>Necessary Documentation</b>
Main activities must be in support of medical research or treatment programs.	<p>A signed and dated copy of the most recent version of all of the organization's organizing instruments.</p> <p>The name of the applicant organization must match the name of the organization on the organizing instruments.</p>
Must have had a governing body or officers elected by the vote of the members or delegates elected by the members for at least three years.	<p>Copies of meeting minutes recording officer elections for <del>[the past]</del> three years showing the date of each meeting and signature of an officer;</p> <p>Or</p> <p>A dated list of officers and positions held for <del>[each year of the past]</del> three years.</p> <p>A statement signed by an officer indicating which positions were left open if the organization had positions defined in organizing instrument(s) that the organization did not fill.</p>

	Organizing instrument(s) will be reviewed to ensure that the organization has members who elect officers and to confirm the officer positions.
Must have been affiliated with a state or national organization organized to perform the same purposes for at least three years.	<p>Verification by Parent for Charitable Organization Conductor;</p> <p>And</p> <p>A copy of a listing in a publication such as a national roster or newspaper article naming the organization or a letter or other document provided or issued to the applicant from a government agency.</p> <p>The document submitted must reflect the applicant's name, Texas address, and <del>[either be dated three years prior to the application date or]</del> establish the date the organization was founded <u>and at least three years of existence.</u></p>
Must hold a valid 501(c) exemption through the Internal Revenue Service.	If the Commission is unable to validate directly with the Internal Revenue Service that the organization has a 501(c) designation, the Commission will request additional documentation from the applicant.
May not distribute any income to members, officers, or governing body except as reasonable compensation for services.	<p>Most recent copy of Internal Revenue Service (IRS) Form 990 if organization is required to file it with the IRS.</p> <p>Indicate on application if organization is not required to file Form 990.</p> <p>A signed and dated copy of the most recent version of all of the organization's organizing instruments.</p>
Must demonstrate significant progress toward the accomplishment of the organization's purposes during the 12 months preceding the date of application.	<p>At least three (3) different types of acceptable documents as proof that organization was engaged in furthering its charitable purpose for the time period beginning one year prior to the date the application was signed.</p> <p>Acceptable documentation may include:</p> <ol style="list-style-type: none"> <li>1. canceled checks in support of medical treatment or research programs, i.e., American Cancer Society, Muscular Dystrophy Association, or other recognized organizations dedicated to the elimination of disease;</li> <li>2. canceled checks for the purchase of medical equipment or to provide medical care for the needy;</li> <li>3. letters of appreciation from individuals or organizations receiving benefits for treatment;</li> </ol>

	<p>4. IRS Form 990; and</p> <p>5. newspaper articles.</p> <p>To establish the beginning date, an organization may submit documentation dated up to three months prior to the year before the application was signed in order to prove that the organization has been engaged in furthering its charitable purposes throughout the past twelve months.</p> <p>All documents must be dated and indicate the name of the organization.</p>
May appoint only the organization's members to serve as operators.	A current membership list with officers and directors noted. Membership list will be compared to the persons listed on the application to confirm that only members have been named as operators.
Must ensure that none of the organization's officers, directors and operators have been convicted in any jurisdiction of a gambling or gambling-related offense; and have not been convicted of a criminal fraud offense, with the exception of a criminal fraud offense that is a Class C misdemeanor.	<p>A signed and dated copy of the most recent version of all of the organization's organizing instruments that list the officer and director positions;</p> <p>Or</p> <p>If officers and/or directors are not listed in organizing instruments, a current membership list identifying officers and directors.</p> <p>If officer and/or director positions are unfilled, a statement signed by an officer indicating which positions are vacant.</p> <p>The Commission will compare the number of officers and directors included in the documents to the application to ensure all officers and directors have been disclosed.</p> <p>The Department of Public Safety will conduct a criminal history check on all officers, directors, and operators.</p> <p>Any officer, director, or operator not meeting the criminal history background requirement must resign before a license may be issued.</p>
Section 2001.102 License Application Requirements.	If the organization is organized under the law of this state, the organization must be in good standing with the Secretary of State (SOS) The Commission will request additional documentation from the applicant if unable to validate good standing directly with the SOS.
<b>Volunteer Fire Department:</b>	

<b>Qualifications and Requirements</b>	<b>Necessary Documentation</b>
Organized primarily to provide fire-fighting services.	<p>Proof of membership in a professional fire-fighting organization;</p> <p>Or</p> <p>Copy of a publication that lists the organization and its phone number to call in case of fire;</p> <p>Or</p> <p>A letter from a local government agency recognizing the organization as a volunteer fire department;</p> <p>Or</p> <p>A copy of all organizing instrument(s) which list this purpose for the organization;</p> <p>Or</p> <p>A dated newspaper article which details the organization's activities.</p> <p>The name of the applicant organization must match the name of the applicant on the documents submitted.</p>
Must have been organized in Texas for at least three years.	<p>A copy of a listing in a publication such as a national roster or newspaper article naming the organization;</p> <p>Or</p> <p>A letter or other document provided or issued to the applicant from a government agency.</p> <p>The document submitted must reflect the applicant's name, Texas address, and <del>either be dated three years before the application date or</del> establish the date the organization was founded <u>and at least three years of existence.</u></p>
Must operate fire-fighting equipment.	<p>Pictures of fire equipment reflecting the name of the volunteer fire department;</p> <p>Or</p> <p>Copies of canceled checks or invoices for fire-fighting equipment.</p>
May not pay members other	Most recent copy of Internal Revenue Service (IRS) Form 990 if organization is required to file it with the IRS.

than nominal compensation.	<p>Indicate on application if organization is not required to file Form 990.</p> <p>If not required to file Form 990, a copy of a volunteer fire fighter application;</p> <p>Or</p> <p>Copy of an organizing instrument that describes compensation of members.</p>
Must demonstrate significant progress toward the accomplishment of the organization's purposes during the 12 months preceding the date of application.	<p>Call List which shows the type of incident and location for the 12 month period prior to the date the application was signed.</p>
May appoint only the organization's members to serve as operators.	<p>Current membership list with all officers and directors noted.</p> <p>Membership list will be compared to the persons listed on application to confirm that only members have been named as operators.</p>
Must ensure that none of the organization's officers, directors and operators have been convicted in any jurisdiction of a gambling or gambling-related offense; and have not been convicted of a criminal fraud offense, with the exception of a criminal fraud offense that is a	<p>A signed and dated copy of the most recent version of all of the organization's organizing instruments that list the officer and director positions;</p> <p>Or</p> <p>If officers and/or directors are not listed in organizing instruments, a current membership list identifying officers and directors.</p> <p>If officer and/or director positions are unfilled, a statement signed by an officer indicating which positions are vacant.</p> <p>The Commission will compare the number of officers and directors included in the documents to the application to ensure all officers and directors have been disclosed.</p> <p>The Department of Public Safety will conduct a criminal history check on all officers, directors and operators.</p>



Class C misdemeanor.	Any officer, director, or operator not meeting the criminal history background requirement must resign before a license may be issued.
Section 2001.102 License Application Requirements.	<p>A signed copy of the applicant organization's organizing instruments, including any bylaws, constitution, charter, and articles of incorporation.</p> <p>If the organization is organized under the law of this state the organization must be in good standing with the Secretary of State (SOS). The Commission will request additional documentation from the applicant if unable to validate good standing directly with the SOS.</p>
<b>Veteran Organization:</b>	
<b>Qualifications and Requirements</b>	<b>Necessary Documentation</b>
Must be an unincorporated association or corporation.	<p>A signed copy of the organization's organizing instruments, including any bylaws, constitution, charter, and articles of incorporation.</p> <p>The name of the applicant organization must match the name of the organization on the organizing instruments.</p>
Must hold a valid 501(c) exemption through the Internal Revenue Service.	<p>If the Commission is unable to validate directly with the Internal Revenue Service that the organization has a 501(c) designation, the Commission will request additional documentation from the applicant.</p> <p>Verification by Parent for Charitable Organization Conductor.</p>
Must have been organized in Texas for at least three years.	<p>A copy of a listing in a publication such as a national roster or newspaper article naming the organization;</p> <p>Or</p> <p>A letter or other document provided or issued to the applicant from a government agency.</p> <p>The document submitted must reflect the applicant's name, Texas Address, and either be dated three years before the application date or establish the date the organization as founded.</p>
May not distribute any income to members, officers, or governing body except as reasonable	<p>Most recent copy of Internal Revenue Service (IRS) Form 990 if organization is required to file it with the IRS.</p> <p>Indicate on application if organization is not required to file Form 990.</p>

compensation for services.	
Members must be veterans or dependents of veterans of the United States armed forces.	Verification by Parent for Charitable Organization Conductor.
Must be chartered by the United States Congress.	The Commission will review the list of chartered veteran organizations maintained by the United States Department of Veteran Affairs. Its website link is: <a href="http://www1.va.gov/vso/index.cfm?template=view">http://www1.va.gov/vso/index.cfm?template=view</a> .
Must be organized to advance the interest of veterans or active duty personnel of the US armed forces and their dependents.	<p>A signed and dated copy of the applicant organization's organizing instruments, including any bylaws, constitution, charter, and articles of incorporation.</p> <p>The name of the applicant organization must match the name of the organization on the organizing instruments.</p>
Must demonstrate significant progress toward the accomplishment of the organization's purposes during the 12 months preceding the date of application.	<p>At least three (3) different types of acceptable documents as proof that organization was engaged in furthering its charitable purpose for the time period beginning one year prior to the date the application was signed. Examples of acceptable documentation include copies of:</p> <ol style="list-style-type: none"> <li>1. activity reports filed with the state and/or national organization,</li> <li>2. monetary donations to Veterans Administration (VA) hospitals,</li> <li>3. letters of appreciation from veterans and/or organizations receiving benefits,</li> <li>4. support of and/or contributions to veterans' funerals and/or their families,</li> <li>5. visits to veteran's hospitals,</li> <li>6. newspaper articles, and</li> <li>7. Form 990.</li> </ol> <p>To establish the beginning date, an organization may submit documentation dated up to three months prior to the year before the application was signed in order to prove that the organization has been engaged in furthering its charitable purpose throughout the past twelve months.</p>

	All documents must be dated and indicate the name of the organization.
May appoint only the organization's members to serve as operators.	A current membership list with all officers and directors noted. Membership list will be compared to the persons listed on the application to confirm that only members have been named as operators.
Must ensure that none of the organization's officers, directors and operators have been convicted in any jurisdiction of a gambling or gambling-related offense; and have not been convicted of a criminal fraud offense, with the exception of a criminal fraud offense that is a Class C misdemeanor.	<p>A signed copy of the applicant organization's organizing instruments, including any bylaws, constitution, charter, and articles of incorporation that list the officer and director positions;</p> <p>Or</p> <p>If officers and/or directors are not listed in organizing instruments, a current membership list identifying officers and directors.</p> <p>If officer and/or director positions are unfilled, a statement signed by an officer indicating which positions are vacant.</p> <p>The Commission will compare the number of officers and directors included in the documents to the application to ensure all officers have been disclosed.</p> <p>The Department of Public Safety will conduct a criminal history check on all officers, directors and operators.</p> <p>Any officer, director, or operator not meeting the criminal history background requirement must resign before a license may be issued.</p>
Section 2001.102 License Application Requirements.	If the organization is organized under the law of this state, the organization must be in good standing with the Secretary of State (SOS). The Commission will request additional documentation from the applicant if unable to validate good standing directly with the SOS.
<b>Fraternal Organization:</b>	
<b>Qualifications and Requirements</b>	<b>Necessary Documentation</b>
Must be an Unincorporated Association or Corporation.	<p>A signed copy of the applicant organization's organizing instruments, including any bylaws, constitution, charter, and articles of incorporation.</p> <p>The name of the applicant organization must match the name of the organization on the organizing instruments.</p>
Must be organized to perform and engage in charitable work.	<p>A signed copy of the applicant organization's organizing instruments, including any bylaws, constitution, charter, and articles of incorporation.</p> <p>The name of the applicant organization must match the name of the organization on the organizing instruments.</p>

Must hold a valid 501(c) exemption through the Internal Revenue Service.	<p>If the Commission is unable to validate directly with the Internal Revenue Service that the organization has a 501(c) designation, the Commission will request additional documentation from the applicant;</p> <p>Or</p> <p>Verification by Parent for Charitable Organization Conductor if affiliated with a state or national organization.</p>
May not distribute any income to members, officers, or governing body except as reasonable compensation.	<p>Most recent copy of Internal Revenue Service (IRS) Form 990 if organization is required to file it with the IRS.</p> <p>Indicate on application if organization is not required to file Form 990.</p> <p>A signed copy of the applicant organization's organizing instruments, including any bylaws, constitution, charter, and articles of incorporation.</p>
Must have been organized in Texas for at least three years.	<p>A copy of a listing in a publication such as a national roster or newspaper article if not affiliated with a state or national organization;</p> <p>Or</p> <p>A letter or other document provided or issued to the applicant from a government agency. The document submitted to confirm the requirement must reflect organization's name, Texas address, and be either dated prior to the three year period or establish the date the organization was founded.</p>
Must have a bona fide membership.	Current membership list with all officers and directors noted.
Membership actively and continuously engaged in furthering its authorized purposes for the past three years.	<p>Organizing instrument(s) describing the organization's purposes.</p> <p>Copies of minutes from three annual membership meetings reflecting that the organization voted on the election of officers and reported on matters related to furthering the organization's purpose.</p> <p>Collectively, the three meeting minutes must encompass a (36) thirty-six month period (i.e. one per year).</p> <p>The meeting minutes must be dated and signed by an officer of the organization.</p>
May not authorize or support a public office candidate.	Organizing instrument(s) reflecting that organization has not authorized support or opposition of a public office candidate.

Must demonstrate significant progress toward the accomplishment of the organization's purposes during the 12 months preceding the date of application.	<p>At least three (3) different types of acceptable documents as proof that organization was engaged in furthering its charitable purpose for the time period beginning one year prior to the date the application was signed.</p> <p>Examples of acceptable documentation include copies of:</p> <ol style="list-style-type: none"> <li>1. canceled checks,</li> <li>2. newspaper articles,</li> <li>3. brochures,</li> <li>4. receipts,</li> <li>5. meeting minutes, and</li> <li>6. IRS Form 990.</li> </ol> <p>All documents must be dated and indicate the organization's name.</p> <p>To establish the beginning date, an organization may submit documentation dated up to three months prior to the year before the application was signed in order to prove that the organization has been engaged in furthering its charitable purposes throughout the past twelve months.</p>
May appoint only the organization's members to serve as operators.	A current membership list with all officers and directors noted. Membership list will be compared to the persons listed on the application to confirm that only members have been named as operators.
Must ensure that none of the organization's officers, directors and operators have been convicted in any jurisdiction of a gambling or gambling-related offense; and have not been convicted of a criminal fraud offense, with the exception of a criminal fraud offense that is a Class C misdemeanor.	<p>A signed copy of the applicant organization's organizing instruments, including any bylaws, constitution, charter, and articles of incorporation that list the officer and director positions;</p> <p>Or</p> <p>If officers and/or directors are not listed in organizing instruments, a current membership list identifying officers and directors.</p> <p>If officer and/or director positions are unfilled, a statement signed by an officer indicating which positions are vacant.</p> <p>The Commission will compare the number of officers and directors included in the documents to the application to ensure all officers and directors have been disclosed. The Department of Public Safety will conduct a criminal history check on all officers, directors and operators.</p> <p>Any officer, director, or operator not meeting the criminal history background requirement must resign before a license may be issued.</p>

Section 2001.102 License Application Requirements.	If the organization is organized under the law of this state, the organization must be in good standing with the Secretary of State (SOS). The Commission will request additional documentation from the applicant if unable to validate good standing directly with the SOS.
<b>Volunteer Emergency Medical Services Provider:</b>	
<b>Qualifications and Requirements</b>	<b>Necessary Documentation</b>
Must have been organized in Texas for at least three years.	<p>A copy of a listing in a publication such as a national roster or newspaper article naming the organization;</p> <p>Or</p> <p>A letter or other document provided or issued to the applicant from a government agency.</p> <p>The document submitted must reflect the applicant's name, Texas address, and either be dated three years before the application date or establish the date the organization was founded.</p>
Must demonstrate that the organization has made significant progress toward the accomplishment of its purposes during the 12 months preceding the date of application.	A Call List which shows the type of incident and location for the 12 month period prior to the date the application was signed.
Must appoint only the organization's members to serve as operators for the organization.	A current membership list with all officers and directors noted. Membership list will be compared to the persons listed on the application to confirm that only members have been named as operators.
Must ensure that none of the organization's officers, directors and operators have been	<p>A signed copy of the applicant organization's organizing instruments, including any bylaws, constitution, charter, and articles of incorporation, that list the officer and director positions;</p> <p>Or</p>

<p>convicted in any jurisdiction of a gambling or gambling-related offense; and have not been convicted of a criminal fraud offense, with the exception of a criminal fraud offense that is a Class C misdemeanor.</p>	<p>If officers and/or directors are not listed in organizing instruments, a current membership list identifying officers and directors.</p> <p>If officer and/or director positions are unfilled, a statement signed by an officer indicating which positions are vacant.</p> <p>The Commission will compare the number of officers and directors included in the documents to the application to ensure all officers and directors have been disclosed.</p> <p>The Department of Public Safety will conduct a criminal history check on all officers, directors and operators.</p> <p>Any officer, director or operator not meeting the criminal history background requirement must resign before a license may be issued.</p>
<p>Section 2001.102 License Application Requirements.</p>	<p>Most recent copy of Internal Revenue Service (IRS) Form 990 if organization is required to file it with the IRS.</p> <p>Indicate on application if organization is not required to file Form 990;</p> <p>And</p> <p>A signed copy of the applicant organization's organizing instruments, including any bylaws, constitution, charter, and articles of incorporation;</p> <p>And</p> <p>If the organization is organized under the law of this state the organization must be in good standing with the Secretary of State (SOS). The Commission will request additional documentation from the applicant if unable to validate good standing directly with the SOS.</p>

§402.450. Request for Waiver.

(a) Definition. The following word or term, when used in this chapter, shall have the following meaning, unless the context clearly indicates otherwise: Detrimental charitable purpose waiver (waiver)--A determination by the Commission authorized under §2001.451(k) of the Act to exempt a licensed authorized organization from the requirements of §2001.451 or §2001.457 of the Act because compliance with the requirement(s) of these sections is detrimental to the organization's existing or planned charitable purposes.

1 (b) Detrimental Charitable Purpose Waiver.

2 (1) A licensed authorized organization may submit to the Commission an Application for  
3 Waiver to be exempt from the requirements that:

4 (A) bingo operations must result in net proceeds over the organization's license  
5 period; or

6 (B) a licensed authorized organization must disburse the required amount of net  
7 proceeds for charitable purposes for a specific calendar quarter.

8 (2) An application for a waiver under Subsection (b)(1) must include the following:

9 (A) the reason for the request;

10 (B) an explanation of how compliance with the requirement is detrimental to the  
11 organization's existing or planned charitable purposes;

12 [~~(C) the intended purpose of future charitable distributions;~~]

13 (C) [~~(D)~~] the specific calendar quarter or license year for which the waiver is being  
14 requested, as applicable; and

15 (D) [~~(E)~~] either of the following:

16 (i) a credible business plan for the organization's conduct of bingo or the  
17 organization's existing or planned charitable activities; or

18 (ii) if the request is due to force majeure as defined in §402.453 of this  
19 subchapter, documentation from outside sources supporting force majeure. Examples of  
20 acceptable documentation include newspaper articles, copies of local ordinance changes, police or  
21 fire department reports, notification of road construction, or photographs.

22 (3) A Credible Business Plan may, but is not required to include the following:



1 (A) the specific activity or activities [~~stated project goal of~~] the organization intends  
2 to undertake as they [~~it~~] apply[ies] to the reason for the application for waiver, including: [~~;~~]

3 (i) a timeline for undertaking the activities that is reasonable in light of the  
4 requested waiver period;

5 (ii) the cost of undertaking the activities and how those costs will be  
6 managed;

7 (iii) whether the activity or activities may reasonably be expected to  
8 increase the revenues of the organization;

9 (B) a description of the expenses, if any, that would be avoided or reduced during  
10 the period for which the waiver would be applicable [~~a detailed description of the charitable~~  
11 ~~activities of the organization for the four quarters immediately preceding the application]; and~~

12 [~~(C) a detailed description of the charitable activities of the proposed charitable~~  
13 ~~activities for the time period of the request;~~]

14 [~~(D) a detailed explanation of the reason for the waiver request; and~~]

15 (C) [~~(E) a detailed strategy~~] an explanation of how the proposed activity or activities  
16 [~~organization plans~~] will allow the organization to correct its financial difficulties to ensure the  
17 bingo operations result in positive net proceeds.

18 (c) The Commission may request additional information or documentation as needed to consider  
19 the application for a waiver.

20 (d) The licensed authorized organization or unit must provide all information or documentation  
21 requested by the Commission within 21 calendar days of notice from the Commission. Failure to  
22 provide information or documentation requested by the Commission within the time frame  
23 indicated may result in disapproval of the application.

1 (e) Criteria for Approval of Waiver Applications. The Commission may consider the following in  
2 the approval of waiver applications:

3 (1) the credible business plan or force majeure that necessitates the organization's not  
4 meeting the requirements of §2001.451 or §2001.457 of the Act;

5 (2) the amount of net proceeds from licensed authorized organization's or unit's bingo  
6 operations during the past two years; ~~[and]~~

7 (3) the length of time the organization has conducted bingo; ~~[and two-year compliance~~  
8 ~~history.]~~

9 (4) the organization's history of compliance during the two-year period prior to the  
10 application for the waiver; and

11 (5) other information that is relevant to a decision whether to grant the application.

12 (f) Within 21 calendar days of receipt of the written application for waiver and all required  
13 attachments and documentation, the Commission will notify the organization or unit in writing of  
14 its decision to approve or disapprove the application for a waiver.

15 (g) A business plan described by Subsection (b)(3) shall be presumed credible if:

16 (A) the application is the organization's first application for a waiver of the net proceeds  
17 requirement in the three-year period prior to the application, not including waiver requests made  
18 due to force majeure; and

19 (B) the application is complete and sufficiently detailed to allow the commission to  
20 evaluate whether administration of the plan is reasonably within the organization's capabilities.

21 §402.451. Operating Capital.

22 (a) Definitions. The following words or terms, when used in this chapter, shall have the following  
23 meanings, unless the context clearly indicates otherwise.

1 (1) Average unit member operating capital--An amount equal to the allowable retained  
2 operating capital of the unit divided by the number of unit members.

3 (2) Bingo account--The bingo checking account, bingo savings account, and petty cash if  
4 bingo funds, of a licensed authorized organization or unit.

5 (3) Quarterly report--The Texas Bingo Quarterly Report.

6 (4) Retained operating capital limit--The maximum amount of funds that may be retained  
7 in the bingo account of a licensed authorized organization or unit, which is equal to the  
8 organization's or unit's actual quarterly average bingo expenses, excluding prizes paid, for the  
9 preceding license period but does not exceed \$50,000 per organization.

10 (b) The bingo account balance of a licensed authorized organization, reconciled to include  
11 outstanding checks and deposits in transit, on the last day of each calendar quarter may not exceed  
12 the total of:

13 (1) the organization's or unit's retained operating capital limit;

14 (2) prize fees held in the bingo account to be paid to the Commission and local  
15 governments, or to be retained under Bingo Enabling Act §2001.502(b)(2); and

16 (3) net proceeds from the conduct of bingo for the current quarter.

17 (c) Bingo account funds may be transferred between the bingo checking account, bingo savings  
18 account, and petty cash, where applicable. All funds from the bingo checking account, bingo  
19 savings account, and petty cash shall be included in the bingo account balance reported on the  
20 quarterly report on the last day of each calendar quarter, including funds in transit between the  
21 various accounts.

22 (d) Licensed Authorized Organization's Calculations.

1 (1) The retained operating capital limit for a licensed authorized organization with a one  
2 year license will be calculated based on the quarterly reports for the four (4) calendar quarters  
3 immediately preceding the license start date.

4 (2) The retained operating capital limit for a licensed authorized organization with a two  
5 year license will be calculated for each 12-month period of the license.

6 (3) The retained operating capital limit for a licensed authorized organization submitting  
7 the first renewal of its license to conduct bingo will be calculated based on the quarterly reports  
8 for the three (3) calendar quarters immediately preceding the license start date.

9 (4) The retained operating capital limit is effective for the four (4) calendar quarters  
10 beginning on the first day of the calendar quarter immediately following the license start date.

11 (e) Accounting Unit's Calculations.

12 (1) The retained operating capital limit for an accounting unit will be calculated based on  
13 the quarterly reports for the four (4) quarter period beginning October 1 through September 30 of  
14 each year.

15 (2) The retained operating capital limit for an accounting unit is effective from January 1  
16 through December 31 of each year.

17 (f) A licensed authorized organization's or unit's most recent quarterly report information at the  
18 time of the calculation will be used to calculate its retained operating capital limit.

19 (g) Retained Operating Capital Limits.

20 (1) The retained operating capital in the bingo account of a licensed authorized organization  
21 may not exceed a total of \$50,000 for the first year of licensure.

1 (2) The retained operating capital in the bingo account of a newly formed unit may not  
2 exceed the total of the retained operating capital limits of all the licensed authorized organizations  
3 forming the unit.

4 (3) If a licensed authorized organization joins a unit, the retained operating capital in the  
5 unit's bingo account may be increased by an amount that is equal to the average unit member  
6 operating capital, not to exceed a total of \$50,000.

7 (4) If a licensed authorized organization withdraws from a unit and will no longer utilize  
8 unit accounting, its retained operating capital limit will be equal to the average unit member  
9 operating capital of the unit prior to withdrawal, not to exceed a total of \$50,000.

10 (5) Upon withdrawal of a unit member, the retained operating capital in the bingo account  
11 of a unit must be decreased by an amount that is equal to the average unit member operating capital  
12 by the last day of the calendar quarter immediately following the unit member's withdrawal date.

13 (h) Recalculation of Operating Capital.

14 (1) A licensed authorized organization or unit that files an original or amended quarterly  
15 report for a period used to calculate its retained operating capital limit may submit a written request  
16 to the Commission to re-calculate the limit.

17 (2) A request to re-calculate a retained operating capital limit must include:

18 (A) the reason for the request identifying the specific quarter that the original or  
19 amended quarterly report was filed; and

20 (B) the signature of the bingo chairperson if the request is submitted by a licensed  
21 authorized organization, the unit manager if the unit is managed by a unit manager, or the  
22 designated agent if the unit is not managed by a unit manager.

(i) A licensed authorized organization or unit may apply for an increase in its retained operating capital limit.

(j) The failure of a licensed authorized organization or unit to receive notification from the Commission of its retained operating capital limit by the effective date does not relieve the organization or unit from complying with the retained operating capital limit.

(k) All net proceeds in excess of the retained operating capital limit must be disbursed in accordance with the Act and Rules.

§402.502. Charitable Use of Net Proceeds Recordkeeping.

(a) An organization must maintain and upon request make available to a representative of the Commission or designee:

(1) a copy of the organization's organizing documents;

(2) other enabling documents, any amendments and any adopted bylaws which provide in writing the specific cause, deed or activity that is consistent with the organization's purposes and objectives for which bingo net proceeds will be used; and

(3) a copy of the applicant organization's four most recently filed Internal Revenue Service Form 990, if applicable.

(b) The Commission may request supplemental information from an organization in order to substantiate compliance with the Bingo Enabling Act, §2001.454.

(c) Record Keeping:

(1) In accordance with the Bingo Enabling Act, the licensed authorized organization must have documentation for all proceeds used for charitable purposes to substantiate the use of the funds for purposes consistent with the exempt purposes of the licensed authorized organization.

1           (2) All distributions for charitable purposes must be made from the bingo checking  
2     account. A distribution made from the bingo checking account into another account maintained by  
3     the organization must be substantiated with documentation and used for a cause, deed, or activity  
4     dedicated to the charitable purposes of the organization consistent with the 26 U.S.C. §501 tax  
5     exemption of the organization or the purposes or objective for which the organization qualifies as  
6     an authorized organization.

7           (3) Accounting units must make distributions for charitable purposes from the unit bingo  
8     checking account to the unit member. The unit member must maintain sufficient documentation  
9     to verify the disbursed funds were used for its charitable purposes.

10          (4) A licensed authorized organization must maintain bank statements, canceled checks  
11     and deposits slips or images of them, and bank reconciliations for all accounts to which it deposits  
12     charitable distributions from the proceeds of bingo.

13          (5) A licensed authorized organization must maintain documentation for all charitable  
14     distributions made to individuals or other organizations. These may, but are not required to  
15     include:

16                 (A) the complete name, address, phone number, and contact person for the  
17     individual or organization receiving the donation; and

18                 (B) an invoice, receipt, thank you note, or other written acknowledgement of the  
19     distribution including the date and amount of the donation.

20          (6) A licensed authorized organization must maintain documentation for all charitable  
21     distributions used for its exempt purposes. Documentation may, but is not required to include:  
22     [includes:]

1 (A) invoices, receipts, or other proof of payment for actual expenses incurred for  
2 these purposes; and

3 (B) calendars, floor plans, or other information used to pro-rate any expenses where  
4 only a portion of the expense is considered a legitimate exempt use of charitable distributions.

5 (7) A licensed authorized organization must maintain documentation for all charitable  
6 distributions as to how the use of the funds relates to the cause, deed, or activity dedicated to the  
7 charitable purposes of the organization consistent with the 26 U.S.C. §501 tax exemption of the  
8 organization or the purposes or objective for which the organization qualifies as an authorized  
9 organization.

10 (8) A licensed authorized organization must maintain minutes of any meeting where the  
11 use of bingo proceeds or other activities related to the conduct of bingo is discussed.

12 (9) An organization transferring funds to its bingo account in accordance with §2001.451  
13 of the Act must maintain documentation showing that the transferred funds were not originally  
14 bingo proceeds.

15 (10) A licensed authorized organization must maintain for four years records to substantiate  
16 the use of net proceeds.

17 (11) Reimbursement or direct payment for member or employee travel expenses will only  
18 be considered as used for the charitable purposes of the organization if the following records are  
19 provided to the Commission upon request:

20 (A) the itinerary of a seminar, convention, or retreat showing that the purpose of  
21 the seminar, convention, or retreat was primarily to discuss the charitable functions and purposes  
22 consistent with the 26 U.S.C. §501 tax exemption of the organization or the purposes or objective  
23 for which the organization qualifies as an authorized organization; and



(B) the original or true and correct copies of receipts and cancelled checks showing the date and amount of the contribution for actual out-of-pocket reasonable or necessary expenses such as hotel, airline tickets, meals, etc., and the corresponding request for payment or reimbursement maintained by the organization.

§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 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 (1) organization's or unit's name and taxpayer number;
- 2 (2) form number;
- 3 (3) serial number;
- 4 (4) number of tickets per deal;
- 5 (5) number of tickets sold, missing, or damaged by occasion date;
- 6 (6) number of pull-tab tickets remaining if the deal is closed; and
- 7 (7) occasion date(s) the pull-tab tickets were sold.

8 (f) The Commission shall provide a form for maintaining perpetual inventory. A license authorized  
9 organization may, but is not required to use the form.

10 §402.601. Interest on Delinquent Tax.

11 (a) Interest on Delinquent Tax.

12 (1) The yearly interest rate on delinquent prize fees [~~or rental taxes~~] is variable and is the  
13 prime rate plus one percent, as published in The Wall Street Journal on the first day of each  
14 calendar year that is not a Saturday, Sunday, or legal holiday.

15 (2) Delinquent taxes draw interest beginning 60 days after the date the taxes are due.

16 (b) Interest on Refund or Credit.

17 (1) Except as provided by paragraphs (1) and (2) of subsection (a), interest is at the rate set  
18 out in subsection (a)(1), for the amount found to be erroneously paid by the licensee for prize fees  
19 [~~fee or rental tax~~] for a period, as determined by the Charitable Bingo Operations Division; [5]

20 (A) beginning on the later of 60 days after the date of payment or the date the  
21 quarterly report is required to be filed with the Charitable Bingo Operations Division; and

1 (B) ending on either the date of allowance of credit on account of the Charitable  
2 Bingo Operations Division's decision or audit or a date not more than ten days before the date of  
3 the refund warrant, as determined by the Charitable Bingo Operations Division.

4 (2) A credit of \$100.00 or less entered by a licensed authorized organization or lessor on  
5 its quarterly report does not accrue interest. The credit will be preprinted on the quarterly report  
6 reflecting the amount of the credit to be taken from the current quarter. A credit taken by a licensed  
7 authorized organization or lessor on the quarterly report does not accrue interest.

8 (3) For a refund processed for a [~~tax or~~] fee due, the rate of interest is the rate set out in  
9 subsection (a)(1) of this section.

10 (4) A warrant for interest payments shall be drawn against the fund or account into which  
11 the overpaid prize fee [~~or rental tax~~] was deposited.

12 §402.602. Waiver of Penalty, Settlement of Prize Fees, [~~Rental Tax,~~] Penalty and/or Interest.

13 (a) The Charitable Bingo Operations Director, for good cause shown, may waive a penalty if a  
14 licensee holding a license to conduct bingo or license to lease bingo premises exercised reasonable  
15 diligence to comply with Occupations Code, §2001.504. The Charitable Bingo Operations  
16 Division will not consider a request for a penalty or interest waiver until the principal related to  
17 the specific request is paid in full. To be considered, a written request stating the reason(s) penalty  
18 should be waived must be sent to the Charitable Bingo Operations Division within 14 days of the  
19 date the quarterly report and prize fees [~~and rental taxes~~] were due.

20 (1) The Charitable Bingo Operations Division will inform the licensee in writing within  
21 three days of the Charitable Bingo Operations Division's decision regarding the penalty waiver  
22 request after considering:

23 (A) Whether the licensee is current in the filing of all reports;

1 (B) Whether the licensee is current in the payment of all ~~[taxes or]~~ prize fees due  
2 for the last eight consecutive quarters;

3 (C) Whether a penalty has been waived within the last eight consecutive quarters;

4 (D) Whether the licensee has a good record of timely filing and paying past returns;  
5 and

6 (E) Whether the licensee has taken the necessary steps to correct the problem for  
7 future reporting.

8 (2) If a licensee has had a penalty waived within the last eight consecutive quarters, the  
9 current request will be denied.

10 (b) If a prize fee ~~[or rental tax]~~ is owed for an inactive account, the Charitable Bingo Operations  
11 Division will not consider a request for a penalty or interest waiver until the principal is paid in  
12 full. The Division will notify the inactive account that a prize fee ~~[or rental tax]~~ is owed and provide  
13 the inactive account with any existing documents that support the delinquency determination. The  
14 Division may provide such notice and documentation to any officer, director, or business contact  
15 listed in the inactive account's most recent filing with the Commission.

16 (c) Settlement of ~~[rental tax, gross receipts tax,]~~ prize fees ~~[fee]~~, penalty or interest on an inactive  
17 account. The Commission may settle a claim for ~~[rental tax, gross receipts tax,]~~ prize fees ~~[fee]~~,  
18 penalty, or interest if the total cost of collection, as determined by the Commission, would exceed  
19 the total amount due.

20 §402.700. Denials; Suspensions; Revocations; Hearings.

21 (a) Denial of application. If the Director of the Charitable Bingo Operations Division determines  
22 that an applicant is not eligible for a license on statutory or regulatory grounds, or that the license  
23 should be denied on statutory or regulatory grounds which would justify temporary suspension or

1 revocation of an existing license, he/she will notify the applicant in writing that the application has  
2 been denied and will state such grounds for the denial. If the applicant desires to contest the denial,  
3 the applicant must, within 30 days of the date of the notice of denial, make a written request for a  
4 hearing to contest the denial.

5 (b) Suspension and revocation.

6 (1) Grounds. The Commission may temporarily suspend or revoke a license or temporary  
7 authorization in accordance with the Bingo Enabling Act, §2001.355. If the Commission proposes  
8 to revoke or suspend a license it will notify the licensee in writing and will state the grounds for  
9 the proposed action.

10 (2) Temporary suspension. The Director may issue a temporary suspension based on  
11 evidence of the following violations: failure to pay prize fees, loss of non-profit status, a conviction  
12 for a gambling-related offense or fraud, or the continued involvement of a person with such a  
13 conviction following notice and opportunity to remove that person. A temporary suspension is  
14 effective immediately. Upon notification of the temporary suspension, the Director will  
15 simultaneously serve a notice of a show cause hearing, to be held not later than the 14<sup>th</sup> day after  
16 the date the notice is served, at which the license holder must show cause why the license should  
17 not remain suspended. The notice will include any exhibits the Commission has at the time that it  
18 intends to rely on at the hearing. If the licensee fails to show cause why the license should not be  
19 temporarily suspended, the license will remain suspended pending a final hearing on the merits,  
20 notice of which will be provided within 30 days of the show cause hearing. [Grounds for temporary  
21 suspension of licenses, provisions for service of notice to licensees and show cause hearings, and  
22 the time period for requesting final hearings on suspension or revocation of licenses, and other  
23 related matters are contained in the Bingo Enabling Act.]

1 (c) Hearings.

2 (1) All hearings will be conducted in accordance with the relevant portions of Title 16, Part  
3 9, Chapter 401, Subchapter C.

4 (2) After a hearing on the alleged violation and upon finding that a violation did occur, the  
5 Commission may temporarily suspend a license or temporary authorization for a period not to  
6 exceed one year or may revoke a license or temporary authorization. The period of a suspension  
7 begins on the date of the order invoking the suspension, or the date of the order overruling the  
8 motion for rehearing, if one was filed.

9 (3) In the event a licensee has requested an administrative hearing, and has made timely  
10 and sufficient application for renewal of its license, the licensee may be issued a temporary  
11 authorization to conduct bingo and continue to act pursuant to said authorization until the  
12 Commission issues a final decision, regardless of whether said license has expired during the  
13 hearing process.

14 (d) Reapplication. No person or organization whose license has been revoked or forfeited, or  
15 whose application has been denied for reasons which would justify a revocation of an existing  
16 license will be eligible to apply for another license earlier than one year from the date of forfeiture,  
17 revocation, or denial.

18 §402.702. Disqualifying Convictions.

19 (a) The Commission shall determine, consistent with the requirements of Chapters 53 and 2001,  
20 Occupations Code, whether criminal convictions affect the eligibility of an applicant for a new or  
21 renewal license or listing in the registry of approved bingo workers under the Bingo Enabling Act  
22 (BEA). The Director of the Charitable Bingo Operations Division (Director) shall have the  
23 authority to make such determinations pursuant to this section. The Commission will not apply

Chapter 53, Occupations Code, to officers, directors, or shareholders of, or other individuals associated with, an applicant that is a non-individual business entity.

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

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

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

(A) Penal Code, Chapter 32, Fraud;

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

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

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

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

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

9 (2) An offense under §3g, Article 42A.054 ~~[42.12]~~ of the Code of Criminal Procedure; or

10 (3) A sexually violent offense, as defined by Article 62.001 of the Code of Criminal  
11 Procedure.

12 (d) For offenses that do not fall under subsection (b) or (c) of this section, such as offenses for  
13 which a person pleaded nolo contendere and/or received deferred adjudication and court  
14 supervision, and except as provided in subsection (a) of this section, the Commission may apply  
15 the provisions of Chapter 53, Occupations Code, to determine whether or not the applicant is  
16 eligible for a new or renewal license, or registry listing, under the BEA. For ~~[Generally, for]~~  
17 purposes of applying Chapter 53, the Commission may ~~[will]~~ consider an applicant's deferred  
18 adjudication for a gambling or gambling-related offense, or a criminal fraud offense, to be a  
19 conviction in accordance with §53.021(d), Occupations Code.

20 (e) Because the Commission has a duty to exercise strict control and close supervision over the  
21 conduct of Charitable Bingo to ensure that bingo is fairly conducted and the proceeds derived from  
22 bingo are used for an authorized purpose, and, because bingo games are largely cash-based  
23 operations providing opportunities for individuals to have access to cash and/or products that may



1 be exchanged for cash, the Commission finds that prohibited acts under the BEA and convictions  
2 for offenses that call into question an applicant's honesty, integrity, or trustworthiness in handling  
3 funds or dealing with the public, directly relate to the duties and responsibilities of licensed and  
4 registered activities under the BEA. The Commission deems convictions (including deferred  
5 adjudications and/or nolo contendere pleas) for certain misdemeanor and felony offenses to  
6 directly relate to the fitness of a new or renewal applicant for a license or registry listing under the  
7 BEA. Such offenses include the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

6 (8) Tex. Health and Safety Code, Chapter 481, Manufacture, Delivery, or Possession with  
7 Intent to Deliver Controlled Substances; and

8 (9) [(8)] Any offense committed, including in another state or Federal jurisdiction  
9 involving substantially similar conduct as an offense in the applicable sections of Penal Code,  
10 Chapters 30, 31, 33, 34, 36, 37, 71, Tex. Health and Safety Code, Chapter 481, or the BEA.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

16 (7) other evidence of the person's fitness, including letters of recommendation and veteran's  
17 status, including discharge status.

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

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

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

6 (l) The Director shall issue guidelines relating to the practice of the Commission under Chapter  
7 53, Occupations Code, and this section, and may issue amendments to the guidelines as the  
8 Director deems appropriate, consistent with §53.025.

9 §402.703. Audit Policy.

10 (a) Definitions.

11 (1) Audit--The formal examination of a licensee's accounts, records, and/or business  
12 activities by designated employees or representatives of the Commission.

13 (2) Audit fieldwork--Includes, but is not limited to, the physical inspection of bingo  
14 premises, the observation of a bingo game, the inquiry of management and staff, the review of  
15 financial accounts, records or business processes, the assessment of the adequacy of any internal  
16 controls, or any other activity necessary to meet audit objectives.

17 (3) Licensee--Includes any individual, partnership, corporation, group, or entity licensed  
18 under the Bingo Enabling Act and any group of licensed authorized organizations operating under  
19 a unit agreement.

20 (b) Audit Determination.

21 (1) The purpose of an audit is to determine whether a licensee is, has been, and/or will  
22 remain in compliance with the Bingo Enabling Act and the Charitable Bingo Administrative Rules.

1 (2) Those licensees who are most at risk of violating the Bingo Enabling Act or the  
2 Charitable Bingo Administrative Rules will be identified for audit based on risk factors established  
3 by the Commission. Risk factors may be based on, among other things, a licensee's gross receipts,  
4 gross rentals, bingo expenses, net proceeds, and/or charitable distributions. An audit must  
5 commence by the fourth anniversary of the date a licensee is identified for audit.

6 (3) Notwithstanding paragraph (2) of this subsection, the Commission may audit any  
7 licensee if the Commission reasonably believes the licensee may violate, or may have violated, the  
8 Bingo Enabling Act or the Charitable Bingo Administrative Rules.

9 (c) Notification.

10 (1) If a licensee is selected for an audit pursuant to subsection (b) of this section, a  
11 Commission auditor will so notify that licensee's bingo chairperson, director, business contact,  
12 officer, unit manager, or designated agent in writing. The written notification constitutes the  
13 beginning of the audit.

14 (2) The written notification will identify the time period to be audited and any records or  
15 other information that must be made available for Commission review. Various forms, including  
16 questionnaires and physical inventory requests, may be included with the written notification.  
17 Licensees must complete any forms in the manner, and in the time period, specified by the  
18 Commission.

19 (3) If the Commission does not receive a timely response to its initial request for records,  
20 it will provide the licensee with a second and final request to provide all records within ten (10)  
21 calendar days. The Commission will not examine any records that are sent after that deadline, and  
22 the licensee will be responsible for any audit findings involving the absence of those records.

23 (d) Entrance Conference.

1 (1) Within ten (10) calendar days of sending the written notification under subsection (c)  
2 of this section, an auditor will attempt to contact the selected licensee's bingo chairperson, director,  
3 business contact, officer, unit manager, or designated agent to schedule an audit entrance  
4 conference. Unless otherwise provided by the Commission, the audit entrance conference will be  
5 held within fourteen (14) calendar days from the auditors contact with the licensee. The licensee  
6 may submit a written request to the Commission to delay the audit entrance conference. The  
7 written request must include the reasons for the requested delay. After reviewing a properly  
8 submitted written request to delay, the Commission may either approve or deny the request or  
9 notify the licensee that additional information is needed before a decision is made. If the  
10 Commission and licensee are unable to agree on the date, time, and place of the audit entrance  
11 conference, or if the Commission auditor is unable to contact the licensee's bingo chairperson,  
12 director, business contact, officer, unit manager, or designated agent, the auditor shall schedule the  
13 audit entrance conference and send the licensee written notice of that fact at least ten (10) calendar  
14 days prior to the scheduled audit entrance conference.

15 (2) The purpose of an audit entrance conference is to allow the auditor(s) to meet with the  
16 selected licensee's bingo chairperson, director, business contact, officer, unit manager, or  
17 designated agent to collect any records or other information identified in the written notification  
18 under subsection (c) of this section, to discuss the audit process, and to answer any questions the  
19 licensee may have regarding the audit. There is no standard timeline by which an audit will be  
20 completed, but an audit must be completed within one [~~two~~] year [~~years~~] from the date of the  
21 entrance conference unless the Director extends the time period and notifies the licensee of the  
22 extension.

1 (3) The Commission may request the attendance at the audit entrance conference of any  
2 person familiar with the licensee's operations. In addition to any attendees requested by the  
3 Commission, the licensee may allow any other individuals to attend the audit entrance conference.

4 (e) Audit Fieldwork. Any time after the conclusion of the audit entrance conference, the auditor(s)  
5 may initiate and conduct the audit fieldwork at the licensee's business office, bingo premises,  
6 bookkeeper's office, or accountant's office; or, a location designated by the auditor(s). When  
7 conducting audit fieldwork, the auditor(s), at their discretion, may use a detailed auditing  
8 procedure or a sample and projection auditing method. A sample and projection auditing method  
9 may include, but is not limited to, manual sampling techniques, computer-assisted audit  
10 techniques, analytical procedures, financial projections, and auditor recompilation from reliable  
11 independent sources.

12 (f) Exit Conference.

13 (1) Any time after the completion of the audit fieldwork, an auditor will attempt to contact  
14 the selected licensee's bingo chairperson, director, business contact, officer, unit manager, or  
15 designated agent to schedule an audit exit conference. If the auditor and licensee are unable to  
16 agree on the date, time, and place of the audit exit conference, or if the auditor is unable to contact  
17 the licensee's bingo chairperson, director, business contact, officer, unit manager, or designated  
18 agent, the auditor shall schedule the audit exit conference and send the licensee written notice of  
19 that fact at least ten (10) calendar days prior to the scheduled audit exit conference.

20 (2) The purpose of an audit exit conference is to allow the auditor(s) to meet with the  
21 selected licensee's bingo chairperson, director, business contact, officer, unit manager, or  
22 designated agent to discuss the results of the audit and the draft audit report.

1 (3) The Commission may request the attendance at the audit exit conference of any person  
2 familiar with the licensee's operations. In addition to any attendees requested by the Commission,  
3 the licensee may allow any other individuals to attend the audit exit conference.

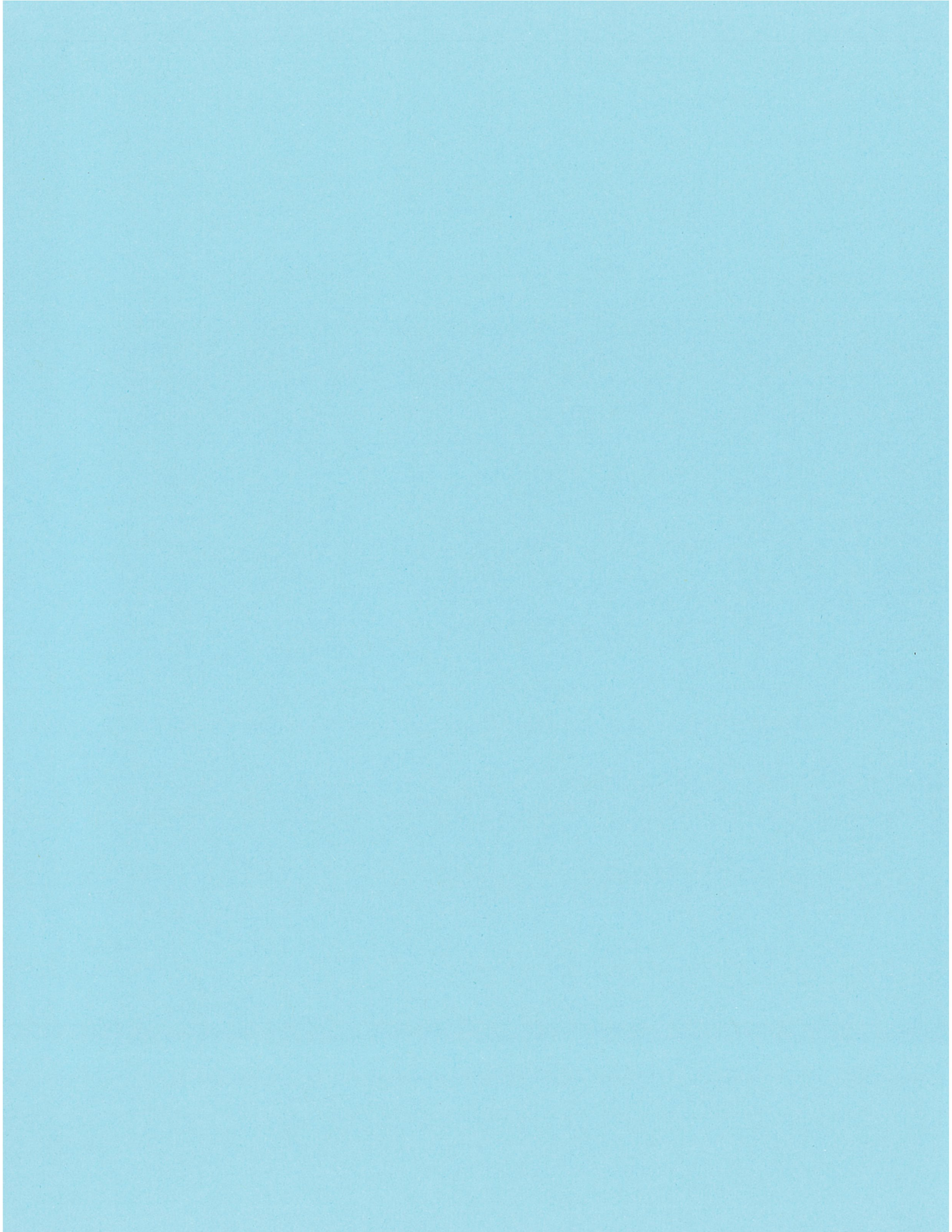
4 (g) Audit Report.

5 (1) Upon completion of the audit, the auditor(s) will prepare a draft audit report containing  
6 their findings and conclusions. A copy of the draft audit report will be provided to the licensee at  
7 the audit exit conference. At least three (3) business days before the audit exit conference, but only  
8 to the extent it is practicable, the Commission will also send a copy of the draft audit report to one  
9 e-mail address or facsimile number associated with the licensee. The licensee must notify the  
10 Commission of the designated e-mail address or facsimile number by the end of the audit entrance  
11 conference if the licensee is to receive a copy of the draft audit report prior to the audit exit  
12 conference.

13 (2) A licensee may, but is not required to, respond to the draft audit report by providing  
14 written comments and any supporting documentation to the auditor(s) within twenty (20) calendar  
15 days of receiving the draft audit report. Written comments should include a statement of agreement  
16 or disagreement with the draft audit report findings and, if applicable, a list of any corrective  
17 measures that will be taken to ensure compliance with the Bingo Enabling Act and Charitable  
18 Bingo Administrative Rules. Any properly submitted comments and supporting documents will  
19 be reviewed by the auditor(s) and placed in the final audit report. The auditor(s) may revise the  
20 draft audit report in response to any properly submitted comments or supporting documents.

21 (3) Any time after the twenty (20) calendar day deadline, the auditor(s) may issue the final  
22 audit report. A copy of the report will be provided to the licensee.





## TITLE 16. ECONOMIC REGULATION

### 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), 402.300 (Pull-Tab Bingo), 402.301 (Bingo Card/Paper), 402.400 (General Licensing Provisions), 402.401 (Temporary License), 402.404 (License Classes and Fees), 402.408 (Designation of Members), 402.420 (Qualifications and Requirements for Conductor's License), 402.450 (Request for Waiver), 402.451 (Operating Capital), 402.502 (Charitable Use of Net Proceeds Recordkeeping), 402.503 (Bingo Gift Certificates), 402.511 (Required Inventory Records), 402.601 (Interest on Delinquent Tax), 402.602 (Waiver of Penalty, Settlement of Prize Fees, Rental Tax, Penalty and/or Interest), 402.700 (Denials; Suspensions; Revocations; Hearings), 402.702 (Disqualifying Convictions), and 402.703 (Audit Policy).

The proposed rule amendments are a result of both the Commission's recent rule review conducted in accordance with Texas Government Code §2001.039, and several stakeholder meetings between Commission staff and various representatives of the bingo community, including the Bingo Advisory Committee, Texas Charity Advocates, the Bingo Interest Group, Conservative Texans for Charitable Bingo, and the Department of Texas, Veterans of Foreign Wars. The Commission solicited from these representatives any proposed rule changes desired by the bingo community and the proposed changes were discussed at length in the meetings. Many of the bingo community's proposed changes are reflected in this rulemaking proposal, as are certain other changes identified in the rule review and/or desired by the Commission.

The proposed amendments include updates and clarifications of certain terms and remove references and citations that are no longer applicable. The proposal implements procedural guidelines related to temporary suspensions that are required by the Bingo Enabling Act (BEA) and implements procedural changes for processing incomplete license applications that will conserve limited staff resources. The proposed amendments remove record keeping requirements and other restrictions found to be unnecessary to the agency's purpose of ensuring that bingo is conducted fairly and that proceeds go to charities. Finally, the proposal allows organizations to issue electronic gift certificates, to accept and award donated prizes, and to conduct a bingo occasion using a temporary license without having to display verification from the Commission that it received notification of the occasion, all permissible changes that the bingo industry believes will help generate proceeds for charities.

The proposed amendments to Rule 402.200(h) provide that any licensed authorized organization, rather than just those with a non-annual license, may accept or award donated prizes. The proposed amendments to Rule 402.200(i)(4) remove the requirement that organizations maintain final game schedules in their records.

The proposed amendments to Rule 402.300(b)(4) will eliminate the requirement that manufacturers submit a specified number of pull-tab tickets to the Commission for testing after the ticket artwork has been approved. The proposed amendments to Rule 402.301(a)(3) and (11) will clarify that a bonus number can be any number on a bingo card so long as the number is identified as such prior to the start of a bingo game.

The proposed amendments to Rule 402.400(e) provide that an incomplete original application will be returned, rather than denied, 21 days after the Commission requests more information if the applicant fails to respond; proposed amendments to Rule 402.400(l) provide that a license may be placed in administrative hold at any time, rather than only at the time of license renewal; proposed amendments to Rules 402.401(b)(3) and §402.401(d)(3)(D) remove the requirement that a conductor display verification from the Commission during a temporary bingo occasion, thus allowing for the use of temporary-on-demand licenses; proposed amendments to Rule 402.404 remove references to organization license fees, which no longer exist; proposed amendments to Rule 402.408 allow for a designated member of an organization to renew and print licenses online; proposed amendments to Rule 402.420 correct the requirements for licensure of authorized organizations related to time-in-existence; proposed amendments to Rule 402.450(b)(3) provide further clarification that a credible business plan, may, but is not required to contain certain components; and proposed amendments to Rule 402.451(b)(2) provide that bingo account calculations will include prize fees held in the bingo account to be paid to local governments or charitable accounts.

Proposed amendments to Rule 402.502(c)(5) and (6) provide clarification that organizations may, but are not required to, maintain certain documentation for all charitable distributions; proposed amendments to Rule 402.503 allow for the use of electronic gift certificates subject to the same restrictions as paper gift cards; and proposed amendments to Rule 402.511 provide that the Commission will create a form for maintaining perpetual inventory that organizations may use.

Proposed amendments to Rules 402.601 and 402.602 remove all references to rental and gross receipts taxes because they are no longer collected.

Finally, proposed amendments to Rule 402.700(b) provide for a temporary suspension process and guidelines; proposed amendments to Rule 402.702(c)(2) correct a citation to the Texas Code of Criminal Procedure; proposed amendments to Rule 402.702(d) provide that the Commission "may" treat certain deferred adjudications as convictions, rather than doing so "generally"; proposed amendments to Rule 402.702(e) add assault and manufacture, delivery, or possession with the intent to deliver of a controlled substance to the list of directly related offenses; and proposed amendments to Rule 402.703(c)(3) and (d)(2) provide that audits will be completed within one year of an entrance conference and that organizations will be provided with no more than two letters requesting records in an audit.

Kathy Pyka, Controller, has determined that for each year of the first five years the amendments will be in effect, there will be no



significant fiscal impact for state or local governments as a result of the proposed amendments. There will be no adverse effect on small businesses or rural communities, micro businesses, or local or state employment. There 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).

Thomas Hanson, Director of the Charitable Bingo Operations Division, has determined that for each year of the first five years the proposed amended rules will be in effect, the anticipated public benefit will be a more efficient process for licensing applicants and a reduction and simplification of regulations in order to help organizations generate more proceeds for their charitable purposes. The proposal also implements procedural guidelines related to temporary suspensions as required by the BEA.

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

- (1) The proposed amendments do not create or eliminate a government program.
- (2) Implementation of the proposed amendments does not require the creation of new employee positions or the elimination of existing employee positions.
- (3) Implementation of the proposed amendments does not require an increase or decrease in future legislative appropriations to the Commission.
- (4) The proposed amendments do not require an increase or decrease in 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](mailto: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 will also hold a public hearing to receive comments on this proposal at 9:00 a.m. on September 9, 2020, via a Zoom teleconference. More information regarding the teleconference will be available on the Commission website.

## **SUBCHAPTER B. CONDUCT OF BINGO**

### **16 TAC §402.200**

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

(b) Inspection and use of equipment.

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

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

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

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

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

- (A) bingo equipment malfunctions; and
- (B) improper bingo ball calls or placements.

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

- (1) owned by a licensed authorized organization;
- (2) owned by a governmental agency when there is no charge to the licensed authorized organization for use of the premises;
- (3) leased, or used only by the holder of a temporary license; or
- (4) owned or leased by a licensed commercial lessor.

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

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

(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.

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

(h) Donated bingo prizes. A [Only] licensed authorized organization [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) 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) 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) 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) 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) 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) 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) 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) 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.

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 C. BINGO GAMES AND EQUIPMENT

### 16 TAC §402.300, §402.301

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 or organizations in the same unit within a 24-hour period without any intervening occasions conducted by another organization or organization from a different unit, commencing at the start of the first occasion.

(b) Approval of pull-tab bingo tickets.

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

(2) All pull-tab bingo ticket color artwork with a letter of introduction including style of play must be presented to the Commission's Austin, Texas location for review. The manufacturer must submit one complete color positive or hardcopy set of the color artwork for each pull-tab bingo ticket and its accompanying flare. The color artwork may be submitted in an electronic format prescribed by the Commission in lieu of the hardcopy submission. The submission must include the payout schedule. The submission must show both sides of a pull-tab bingo ticket and must be submitted on an 8 1/2" x 11" size sheet. The color artwork will show the actual size of the ticket and a 200% size of the ticket. The color artwork will clearly identify all winning and non-winning symbols. The color artwork will clearly identify the winnable patterns and combinations.

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

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

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

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

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

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

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

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

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

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

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

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

(c) Disapproval of pull-tab bingo tickets.

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

tributor must provide to the Commission, within 15 days of the Commission's notice to the manufacturer, confirmation that the distributor has notified the licensed authorized organization that the pull-tab ticket has been disapproved and sale and use of the disapproved ticket must cease immediately.

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

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

(d) Manufacturing requirements.

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

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

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

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

(5) A flare must accompany each deal.

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

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

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

(9) Each individual pull-tab bingo ticket must be constructed so that, until opened by a player, it is substantially impossible,

in the opinion of the Commission, to determine its concealed letter(s), number(s) or symbol(s).

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

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

(12) Pull-tab bingo tickets must:

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

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

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

(D) be designed so that the numbers and symbols are a minimum of 2/32 (4/64) inch from the dye-cut window perforations;

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

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

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

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

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

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

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

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

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

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

(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. Pull-tab tickets may be sold up to one hour before an occasion, but they may only be redeemed during an occasion.

(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, the organization or organizations within a unit 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.

(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 or organizations within a unit 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 or unit 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) Inspection. The Commission, its authorized representative or designee may examine and inspect any individual pull-tab bingo ticket or deal of pull-tab bingo tickets and may pull all remaining pull-tab bingo tickets in an unsold deal.

(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 or organizations within a unit 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 or unit 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 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) Style of Play. The following pull-tab bingo tickets are authorized by this rule. A last sale feature can be utilized on any pull-tab bingo ticket.

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

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

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

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

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

(6) Event Ticket. A form of pull-tab bingo that utilizes some subsequent action to determine the event ticket winner(s), such as a drawing of ball(s), spinning wheel, opening of a seal on a flare(s) or any other method approved by the Commission so long as that method has designated numbers, letters, or symbols that conform to the randomly selected numbers or symbols. When a flare is used to determine winning tickets, the flare shall have the same form number and serial number as the event tickets. Pull-tab bingo tickets used as event tickets must contain more than two instant winners.

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

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

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

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

*§402.301. Bingo Cards/Paper.*

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

(1) Bingo card/paper. A hard card, disposable bingo card/paper, shutter card, or any other bingo card/paper approved by the Commission.

(2) Bingo hard card. A device made of cardboard, plastic or other suitable material that is intended for repeated use of the bingo card at multiple bingo occasions.

(3) Bonus number(s). A number or numbers on any type of bingo card/paper [that has an identified number or numbers] which when called could result in an additional prize awarded. Bonus number(s) must be announced prior to the start of a bingo game.

(4) Braille bingo card. A device that contains raised symbols that reflect numbers on a reusable card.

(5) Break-open bingo. A type of disposable bingo card/paper that is sealed, that conceals the bingo card/paper face, that may be folded, and where the bingo game or a portion of the bingo game has been pre-called.

(6) Case. A receptacle that contains bingo card/paper products.

(7) Cut. Indicates the direction in which a sheet of faces will be cut from the master sheet of disposable bingo card/paper. A cut can be square, horizontal or vertical. The sheet of disposable bingo card/paper printed by the manufacturer of a specific group of disposable bingo card/paper that can be subdivided vertically or horizontally into sheets.

(8) Defective. Bingo card/paper missing specifications as originally approved by the Commission.

(9) Disposable bingo card/paper. A sheet or sheets of paper that is designed or intended for use at a single bingo occasion.

(10) Double numbers. Bingo card/paper with two numbers in each of the 24 spaces on each face.

(11) Face. A specific configuration of numbers, symbols, or blank squares imprinted on paper, cardboard, or other materials, and designed to be used to conduct bingo games. The bingo card/paper normally consists of five rows of five columns that may bear 24 pre-printed numbers between 1 and 75, symbols, or blank squares, except for the center square which is a free space and have the letters B-I-N-G-O appear in order above the five columns[ with the exception of bonus number(s) that may appear on the bingo card/paper.]

(12) Free space. The center square on the face of a bingo card/paper.

(13) Loteria. A type of bingo that utilizes symbols or pictures. Normally playing cards are utilized instead of numbered balls.

(14) Multi-part card/paper. A type of disposable bingo card/paper where the player selects the numbers. The player retains one part of the disposable bingo card/paper while the licensee for the purpose of verification retains the other part of the disposable bingo card/paper.

(15) On. The number of faces imprinted on a sheet of disposal bingo card/paper after it is cut. The number of bingo card/paper faces normally precedes this term.

(16) Pre-marked. A bingo card/paper where one or more of the numbers are already marked or identified prior to the start of the game.

(17) Product line. A specific type of bingo card/paper, identifiable by features or characteristics that are unique when compared to other bingo card/paper manufactured by the manufacturer.

(18) Serial number. The unique identification number assigned by the manufacturer to a specific product line of bingo card/paper.

(19) Series number. The specific number assigned by the manufacturer that identifies the unique configuration of numbers that appears on an individual bingo card/paper face.

(20) Sheet. A single piece of paper that contains one or more disposable bingo card/paper faces.

(21) Shutter card. A device made of cardboard or other suitable material with plastic "shutters" that cover a number to simulate the number being daubed.

(22) UP. The number of sheets of disposable bingo paper glued together by the manufacturer. The number of sheets normally precedes this term.

(23) UPS pads. A bound collection of disposable bingo card/paper where each sheet in the collection is used to play a separate bingo game during the occasion.

(b) Approval of bingo card/paper.

(1) Bingo card/paper shall not be sold in the state of Texas, nor furnished to any person in this state, nor used for play in this state until the manufacturer of the bingo card/paper has received written approval for use within the state of Texas by the Commission. The manufacturer at its own expense must present the bingo card/paper to the Commission for approval.

(2) A letter of introduction including the style of play must be presented to Commission headquarters for review. The manufacturer must submit one complete color positive or sample for each type of bingo card/paper. The color positive or sample may be submitted in an electronic format prescribed by the Commission in lieu of the hard-copy submission. The color positive or sample bingo card/paper must:

(A) bear on the face of every disposable bingo card/paper used, sold, or furnished in this state an impression of the State of Texas and a star of five points encircled by olive and live oak branches and the words "Texas Lottery Commission," in accordance with detailed specification, available on request from the Commission. The face of each disposable bingo card/paper must also have printed on it in a conspicuous location the name of the manufacturer or trademark, which has been filed with the Commission; and

(B) contain the serial and series numbers assigned by the manufacturer on the face of each of the bingo card/paper, except in the case of Break-open bingo, which may contain the serial number assigned by the manufacturer on the outside so as not to be concealed.

(3) The bingo card/paper may contain numbers or symbols so long as the numbers or symbols preserve the integrity of the Commission. The Commission will not approve any bingo paper that displays images or text that could be interpreted as depicting violent acts, profane language, or provocative, explicit, or derogatory images or text, as determined by the Commission. All images or text are subject to final approval by the Commission.

(4) If the bingo card/paper is approved the manufacturer will be notified of the approval. This approval only extends to the specific bingo card/paper submitted and will be cited in the Commission's approval letter. If the bingo card/paper is modified in any way, with the exception of the color, series number, and/or serial number it must be resubmitted to the Commission for approval.

(5) The Commission may require resubmission of an approved bingo card/paper at any time.

(6) If an approved bingo card/paper is discontinued or no longer manufactured for sale in Texas, the manufacturer must provide the Commission written notification within ten days of discontinuance or cessation of manufacturing for sale in Texas. The written notification may be sent to the Commission via facsimile, e-mail, delivery services or postal delivery.

(c) Disapproval of bingo card/paper.

(1) After inspection of the bingo card/paper by the Commission, if the bingo card/paper does not comply with the provisions of this rule and/or the Bingo Enabling Act, the Commission shall disapprove the bingo card/paper and shall notify the manufacturer of the disapproval. Any bingo card/paper that is disapproved by the Commission may not be displayed, purchased or sold in the state of Texas. Disapproval of and prohibition to use, purchase, sell or otherwise distribute, is effective immediately upon notice to the manufacturer by the Commission.

(2) A manufacturer shall not sell, or furnish unapproved bingo card/paper to anyone, including another manufacturer or distributor for use in this state. A manufacturer shall not sell, or furnish bingo card/paper not bearing the seal of the Commission on the face of the bingo card/paper and the manufacturer's name or trademark to distributors for use in this state. This requirement also applies to any manufacturer who assembles bingo card/paper for sale in Texas.

(3) A licensed authorized organization shall not purchase, obtain, or use disapproved bingo card/paper in this state.

(4) If the manufacturer modifies the bingo card/paper that was previously disapproved, the manufacturer may resubmit the modified bingo card/paper for Commission approval. At any time the manufacturer may withdraw any disapproved bingo card/paper from further consideration.

(5) The Commission may disapprove the bingo card/paper at any stage of review. The disapproval of the bingo card/paper is administratively final.

(d) Manufacturing requirements.

(1) Bingo card/paper must comply with the following construction standards.

(A) The disposable paper used shall be of sufficient weight and quality to allow for clearly readable numbers and to prevent ink from spreading or bleeding through an UPS pad thereby obscuring other numbers or bingo card/paper;

(B) series numbers may be displayed in the center square of the bingo card/paper;

(C) numbers printed on the bingo card/paper shall be randomly assigned; and

(D) a manufacturer shall not repeat a serial number on or in the same product line, series, and color of bingo card/paper within one year of the last printing of that serial number.

(2) UPS pad must comply with the following construction standards.

(A) Bingo card/paper in UPS pads must only be glued and not stapled; and

(B) the disposable bingo card/paper assembled into UPS pads shall not be separated, with the exception of the multi-part disposable bingo card/paper, nor shall single sheets already manufactured be cut for sale for special bingo games.

(3) Inspection. The Commission, its authorized representative or designee may examine and inspect any individual bingo card/paper or series of bingo card/paper and may pull all remaining bingo card/paper in the inventory if the Commission, its authorized representative or designee determines that the bingo card/paper is defective or has not been approved.

(4) Packaging.

(A) Bingo card/paper shall be sealed in shrink wrap and be designed so that if the shrink wrapped bingo card/paper, package, or case was opened or tampered with, it would be easily noticed.

(B) Barcodes may be included on each bingo card/paper, package, or case provided the barcode contains information required in subparagraph (C).

(C) A label shall be placed on, or be visible from, the exterior of each package or case of bingo card/paper listing the following information:

- (i) Type of product;
- (ii) Series number of the UPS pads and/or sheet(s);
- (iii) Serial numbers of the top sheet of the UPS pads and/or sheet(s);
- (iv) Number of package or cases; and
- (v) Cut and color of paper.

(D) A packing slip shall be included with the package or case listing the following information:

- (i) Type of product;
- (ii) Number of UPS pads or sheets;
- (iii) Series number of the UPS pads and/or sheet(s);
- (iv) Serial numbers of the top sheet of the UPS pads and/or sheet(s);
- (v) Number of package or cases; and
- (vi) Cut and color of paper.

(e) Records.

(1) Manufacturers and distributors must provide the following information on each invoice and other documents used in connection with a sale, return or any other type of transfer of bingo card/paper:

- (A) Date of sale;
- (B) Quantity sold and number of faces per sheet;
- (C) Serial and series number of each bingo card/paper sold;
- (D) Name and address of the purchaser; and
- (E) Texas taxpayer identification number of the purchaser.

(2) Manufacturers and distributors must maintain standard accounting records that include but are not limited to:

- (A) Sales invoice;
  - (B) Credit memos;
  - (C) Sales journal; and
  - (D) Purchase records.
- (3) Licensed authorized organization.

(A) A licensed authorized organization must maintain a disposable bingo card/paper sales summary showing the organization's name, taxpayer number, distributor's taxpayer number, invoice date, distributor's name, invoice number, serial number, and series number. Also, the disposable bingo card/paper sales summary must include the number of faces (ON), number of sheets (UP), and color of borders.

(B) A licensed authorized organization must show the date of the occasion on which the disposable bingo card/paper was sold, a beginning inventory, along with the number of disposable bingo card/paper sold.

(C) A licensed authorized organization must maintain a perpetual inventory of all disposable bingo card/paper.

(D) Disposable bingo card/paper marked for destruction cannot be destroyed until witnessed by the Commission, its authorized representative or designee. All destruction documentation must be retained by the licensed organization for a period of four years from the date of destruction.

(4) All records identified in this subsection must be retained for a period of four years from creation of the records.

(f) Braille cards. Visually impaired, legally blind, or persons with disabilities may use their own personal Braille cards when the authorized organization does not provide Braille Cards. Players using Braille cards shall pay the equivalent price to participate in the game. The authorized organization shall have the right to inspect, and to reject any personal Braille card(s). Braille cards are not required to be approved by the Commission. Braille cards are not considered bingo equipment as defined by Occupations Code, §2001.002(5).

(g) Loteria. The symbols or pictures may be identified with Spanish subtitles and each of the 54 cards contains a separate and distinct symbol or picture. The 54 individual cards may be shuffled by the caller and then randomly drawn and announced to the players. The player uses a loteria card, which contains a minimum of sixteen squares and each square has one of the 54 symbols or pictures. There are no duplicate symbols or pictures on the loteria card. Loteria cards are not considered bingo equipment as defined by Occupations Code, §2001.002(5).

(h) Style of play and minimum standards of play. Prizes awarded on any style of play must be in accordance with Occupations Code, §2001.420.

(1) Player pick ems. A game of bingo where a player selects his/her own numbers on a multi-part duplicated disposable bingo card/paper. One copy is retained by the player and used as a bingo card/paper while the other copy is provided to the organization for verification purposes.

(2) Progressive bingo. A game of bingo that either the established prize amount or number of bingo balls and/or objects may be increased from one session to the next scheduled session. If no player completes the required pattern within the specified number of bingo balls or objects drawn, the established prize amount may be increased but shall not exceed the prize amount authorized by the Bingo Enabling Act.

(3) Warm-up or early bird. A bingo game conducted at the beginning of a bingo occasion during the authorized organization's license times, in which prizes are awarded based upon a percentage of the sum of money received from the sale of the warm-up/early bird bingo card/paper.

(4) Shaded/Images bingo. Bingo card/paper that incorporates images where one or more squares on a bingo card/paper face are shaded. Each shaded image conforms to a pattern that must be achieved

to win a bingo game or each shaded square may be used as a free space or a pattern for a bingo game.

(5) Bingo bonus number(s). A bingo game that has additional identified number(s) in excess of the 24 numbers that appear on the bingo card/paper face that, when called, could result in an additional prize awarded. The first player who matches the numbers shown on the bonus number(s) line within the specified number(s) called wins the additional prize.

(6) Multi level or multi tier. Bingo card/paper that has one or more additional lines of number(s) aside from the normal five lines that when played could result in an additional prize. Therefore, a multi level or multi tiered game could be played on this bingo card/paper that provides more opportunities to win.

(7) Multi color bingo. A bingo game played on a bingo card/paper with a different color for each bingo card/paper face. Prizes are awarded based on the color on which the bingo card/paper face that had the bingo.

(8) Pre-called. A game of bingo where the numbers for the game have been pre-called and identified prior to the start of the game.

(9) Double number. A bingo game played on a bingo card/paper that has two numbers per square. A player has two chances to daub each square.

(10) Break-open bingo. A type of bingo game played on sealed disposable bingo card/paper, where the bingo card/paper face is concealed, that may be folded, and where the bingo game has been pre-called. The bingo game may not be pre-called prior to the authorized organization's license time.

(11) Regular bingo. A bingo game played on the standard card face of five rows by five columns with 24 pre-printed numbers between 1 and 75, symbols, or blank squares and a free space square where the winner is determined by a predetermined pattern.

(i) Promotional bingo. This rule shall not apply to bingo card/paper furnished for use in a promotional bingo game conducted in accordance the Occupations Code, §2001.551. The card/paper may not contain the Commission seal.

(j) Exempt organization. This rule shall not apply to bingo card/paper furnished for use by an organization receiving an exemption from bingo licensing in accordance with the Occupations Code, §§2001.551(b)(3)(A) and (B). The bingo card/paper may not contain the Commission seal.

(k) House rules. A licensed authorized organization playing a style of bingo other than regular bingo must develop house rules on how the game is played. The house rules must be made available to the public.

(l) Card-minding devices. This rule shall be applicable only to bingo card/paper made of paper, cardboard or similar material approved by the Commission and shall not be applicable to the manufacture or use of card-minding devices addressed in §§402.321 - 402.328 of this chapter, with the exception of style of play as defined by this rule and approved by the Commission.

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 D. LICENSING REQUIREMENTS

### 16 TAC §§402.400, 402.401, 402.404, 402.408, 402.420, 402.450, 402.451

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.

#### §402.400. General Licensing Provisions.

(a) Any person who wants to engage in a bingo related activity shall apply to the Commission for a license. The application must be on a form prescribed by the Commission and all required information must be legible, correct and complete. The initial submittal of an application is incomplete if the following information is not provided:

(1) All information requested on the application form and supplemental forms;

(2) All supplemental information requested during the pre-licensing investigation period;

(3) The applicable license fee for a lessor, distributor, or manufacturer; and

(4) Authorized signatures as required by the Commission.

(b) Information submitted by an applicant on an applicable form shall be considered to be part of the application. Supplemental information should be submitted on a form prescribed by the Commission and all information required must be correct and complete.

(c) Information submitted by an applicant in a format other than an applicable form must be legible and must include the following:

(1) the name and address of the organization as it appears on the application;

(2) the Texas taxpayer identification number; or, if sole owner, the individual's social security number;

(3) a statement identifying the information submitted;

(4) the signature, printed name and telephone number of the person authorized to submit the information; and

(5) all supplemental information requested during the pre-licensing investigation period.

(d) Within 21 calendar days after the Commission has received an original application, the Commission will review the application and notify the applicant if additional information is required.

(e) If an application is incomplete, the Commission will notify the applicant and, if applicable, the applicant's bingo hall. The applicant must provide the requested information within 21 calendar days of such notification. If the applicant fails to respond within 21 calendar days of the notification, the application will be deemed incomplete and returned to the applicant. [Failure to provide the requested information within the 21 calendar day time line or providing incomplete information may result in the denial of the license application.]

(f) For an application to conduct bingo, an organization may choose to submit the application form without including a bond or other security; information regarding previously held licenses; justice precinct, city or county certification; and information on intended playing location, days, times, and starting date.

(1) All other information requested on the application and the accompanying supplements must be complete and in compliance with all other requirements of the Bingo Enabling Act and the Charitable Bingo Administrative Rules.

(2) Within a number of calendar days required by the Commission on the applicable forms, the organization must remit the required bond or other security to the Commission and inform the Commission on the applicable supplemental forms of the intended playing location, days, times, and starting date of the occasions. If the organization fails to provide the required bond or other security as well as complete and accurate supplement forms within the required timeframe, the Commission will deny the application.

(3) An organization that has submitted the appropriate bond or other security and a complete application, including all applicable supplemental forms, must also submit updated, certified meeting minutes, current as of the submission of the applicable supplemental information, stating that the organization voted to conduct bingo at the licensed location.

(g) Prior to the issuance of a license, the Commission may require an applicant to attend a pre-licensing interview. The Commission will identify the person or persons for the applicant who must attend the pre-licensing interview. The pre-licensing interview will consist of, at a minimum, the following:

- (1) review of the Bingo Enabling Act;
- (2) review of the Charitable Bingo Administrative Rules;
- (3) licensee responsibilities;
- (4) process pertaining to the different types of license application;
- (5) bookkeeping and record keeping requirements as it involves bingo; and
- (6) a statement from the person or persons attending the pre-licensing interview that they are aware of and will comply with the provisions of the Bingo Enabling Act and the Charitable Bingo Administrative Rules.

(h) The Commission may deny an application based on information obtained that indicates non-compliance with the provisions of the Bingo Enabling Act and/or the Charitable Bingo Administrative Rules in connection with a pre-licensing interview and/or location inspection.

(i) Each licensed authorized organization issued a temporary authorization is required to file timely and complete required reports, as applicable to the type of licensing activity requested.

(j) A license applicant may withdraw an application at any time prior to the approval or denial of the application. Once the written request for withdrawal is received by the Commission, all processing of the application will cease and the withdrawal is considered final. License application fees for withdrawn license applications will be refunded, as provided for in the Bingo Enabling Act. If the organization wants to reapply for a license, a complete new application and new license fee, if applicable, are required.

(k) Voluntary surrender of a license.

(1) A licensee may surrender its license for cancellation provided it has completed and submitted to the Commission the prescribed form.

(2) If surrendering a license to conduct bingo, the prescribed form must be signed by the bingo chairperson.

(3) If surrendering any other type of license, the prescribed form must be signed by the sole owner, or by two officers, directors, limited liability corporation members, or partners of the organization.

(4) The cancellation of the license shall be final and effective upon receipt by the Charitable Bingo Operations Division of a copy of the resolution, or other authoritative statement of the licensee, requesting cancellation of the license and providing a requested effective date.

(A) The cancellation is effective as of the date identified in the letter provided that the date has not passed.

(B) If no date is identified in the letter, or the date has passed, the effective date shall be the date the Commission receives the letter.

(5) Notwithstanding cancellation of the license, the licensee must file all reports, returns and remittances required by law.

(6) The licensee shall surrender the license to the Commission on the effective date of the surrender.

(7) The Commission will send the licensee a letter confirming the surrender and resulting cancellation of the license.

(l) Administrative Hold. A licensed authorized organization or commercial lessor, other than an association of licensed authorized organizations, may request to place its regular license in administrative hold at any time, ~~but only at the time of license renewal, as provided in §402.411 of this Chapter.~~

(1) The placement of a license in administrative hold shall be effective on the first day of the license period for which the administrative hold is requested.

(2) The licensee shall submit the license in administrative hold, or a certified statement that the license is not available, to the Commission no later than seven (7) calendar days after the effective date of the placement of the license in administrative hold.

(3) Once the license has been placed in administrative hold, all bingo activity (i.e. leasing, conducting bingo) must cease until the licensee files an amendment and the amended license is issued by the Commission and received by the licensee. A licensed authorized organization with its regular license in administrative hold may not conduct bingo under a temporary license.

(4) Notwithstanding placement of the license in administrative hold, the licensee must file with the Commission:

(A) all applicable reports, returns and remittances required by law; and

(B) a timely and complete application for renewal of the license each time the license is ripe for renewal.

(5) If at the time of license renewal a licensed authorized organization does not have a designated playing location, that license will be placed in administrative hold.

(6) Except for licensed commercial lessors subject to §2001.152(b) of the Occupation Code, a license may not be in administrative hold for more than twelve (12) consecutive quarters.

(7) The fee for a license in administrative hold is set in §402.404(d)(3) of this Chapter.

(8) A license may be removed from administrative hold at any time during a license period. To remove a license from administrative hold, the licensee must file a license amendment application as provided in §2001.306 of the Occupations Code and §402.410 of this Chapter.

(m) Each person required to be named in an application for license under the Bingo Enabling Act other than a temporary license will have a criminal record history inquiry at state and/or national level conducted. Such inquiry may require submission of fingerprint card(s). FBI fingerprint cards are required for an individual listed in an application for a distributor or manufacturer's license and for an individual listed on an application who is not a Texas resident. A criminal record history inquiry at the state and/or national level may be conducted on the operator and officer or director required to be named in an application for a non-annual temporary license under the Bingo Enabling Act.

(n) Representation; personal receipt of documents. For purposes of this subsection, an individual shall be recognized by the Commission as an applicant or licensee's authorized representative only if the applicant or licensee has filed with the Commission a form prescribed by the Commission identifying the individuals currently listed as directors, officers, or operators, or if they are identified on the completed Authorization of Representation for Bingo Licenses form. A person is not an authorized representative of the applicant or licensee unless specifically named on a form prescribed by the Commission as part of the application, or on the Authorization of Representation for Bingo Licenses form that is on file with the Commission. Only those persons specifically named on a form prescribed by the Commission or on the Authorization of Representation for Bingo Licenses form as an authorized representative shall be recognized by the Commission concerning any matter relating to the licensing process or license. Only the applicant or licensee or its authorized representative may receive from the Commission documents relating to the application or license without being required to submit a request under the Public Information Act.

#### §402.401. *Temporary License.*

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

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

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

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

(b) General.

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

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

(3) Display. The licensed authorized organization must conspicuously display during a temporary bingo occasion at the

licensed bingo premises a temporary license. [~~and, if applicable, verification of notification as referred to in subsection (d)(3)(D) of this section.~~]

(4) Voluntary surrender of regular license.

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

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

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

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

(d) Regular license holder.

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

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

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

(A) The regular license holder must submit an application on the prescribed form that indicates the number of temporary-on-demand [~~temporary~~] licenses requested for the license period.

(B) Before using a temporary-on-demand license, the [~~The~~] regular license holder must notify the Commission of the date and time the temporary license will be used by submitting a form prescribed by the Commission. The Commission will verify receipt of the notice in accordance with Bingo Enabling Act §2001.103(g). The license holder is not required to display the Commission's verification during the occasion but must maintain it in their records pursuant to §402.500(a) of this title (relating to General Records Requirements).

(C) Any temporary-on-demand [~~temporary~~] license [~~issued without the specific date or time identified~~] must be used prior to the expiration date of the regular license in effect at the time the temporary license application was filed.

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

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

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

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

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

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

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

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

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

*§402.404. License Classes and Fees.*

(a) Definitions.

(1) License period--For purposes of Texas Occupations Code §2001.104 and §2001.158, the term "license period" means the four full calendar quarters immediately preceding the license end date.

(2) Regular License Classes and Applicable Fee Amount:

~~[(A) There is no annual fee for a license to conduct bingo. The license-class-related amount used solely by the Commission to estimate the pro rata local share of prize fees related to licenses to conduct bingo shall be as follows:]~~

~~[(i) Class A (annual gross receipts of \$25,000 or less) - \$132;]~~

~~[(ii) Class B (annual gross receipts of more than \$25,000 but not more than \$50,000) - \$264;]~~

~~[(iii) Class C (annual gross receipts of more than \$50,000 but not more than \$75,000) - \$396;]~~

~~[(iv) Class D (annual gross receipts of more than \$75,000 but not more than \$100,000) - \$528;]~~

~~[(v) Class E (annual gross receipts of more than \$100,000 but not more than \$150,000) - \$792;]~~

~~[(vi) Class F (annual gross receipts of more than \$150,000 but not more than \$200,000) - \$1,188;]~~

~~[(vii) Class G (annual gross receipts of more than \$200,000 but not more than \$250,000) - \$1,584;]~~

~~[(viii) Class H (annual gross receipts of more than \$250,000 but not more than \$300,000) - \$1,980;]~~

~~[(ix) Class I (annual gross receipts of more than \$300,000 but not more than \$400,000) - \$2,640;]~~

~~[(x) Class J (annual gross receipts of more than \$400,000) - \$3,300;]~~

~~(A) [(B)]~~ The annual fee for a commercial lessor license shall be as follows:

~~(i)~~ Class A (annual gross rentals from licensed organizations of not more than \$12,000) - \$132;

~~(ii)~~ Class B (annual gross rentals from licensed organizations of more than \$12,000 but not more than \$20,000) - \$264;

~~(iii)~~ Class C (annual gross rentals from licensed organizations of more than \$20,000 but not more than \$30,000) - \$396;

~~(iv)~~ Class D (annual gross rentals from licensed organizations of more than \$30,000 but not more than \$40,000) - \$528;

~~(v)~~ Class E (annual gross rentals from licensed organizations of more than \$40,000 but not more than \$50,000) - \$792;

~~(vi)~~ Class F (annual gross rentals from licensed organizations of more than \$50,000 but not more than \$60,000) - \$1,188;

~~(vii)~~ Class G (annual gross rentals from licensed organizations of more than \$60,000 but not more than \$70,000) - \$1,584;

~~(viii)~~ Class H (annual gross rentals from licensed organizations of more than \$70,000 but not more than \$80,000) - \$1,980;

~~(ix)~~ Class I (annual gross rentals from licensed organizations of more than \$80,000 but not more than \$90,000) - \$2,640;

~~(x)~~ Class J (annual gross rentals from licensed organizations of more than \$90,000) - \$3,300.

~~(B) [(C)]~~ Manufacturer's License. The annual fee for a manufacturer's license shall be \$3,000.

~~(C) [(D)]~~ Distributor's License. The annual fee for a distributor's license shall be \$1,000.

(b) Original License Application.

(1) Commercial License to Lease Bingo Premises.

(A) License fees for an original license to lease bingo premises submitted by an authorized organization licensed to conduct bingo must be paid from the organization's bingo bank account.

(B) An applicant may be required to submit additional license fees if the estimated gross rental income used to calculate the license fee is not reasonable when compared to the gross rental income at similarly situated bingo premises. These comparative amounts are used to establish the gross rental income amount upon which the applicant's license fee is based and must be submitted.

(2) Understating the anticipated gross receipts or rental income from a licensed activity for any purpose by an applicant or licensed entity may be grounds for administrative disciplinary action against the licensee.

(c) An organization shall re-estimate its annual gross rental income and submit any balance due in license fee amount if there is an increase within six months of the issuance of the original lessor license in:

(1) the number of organizations conducting bingo at a licensed location; and

(2) the number of bingo occasions conducted at the licensed location.

(d) License Renewal Fee.

(1) The amount of license fee to be paid upon renewal of a license to lease bingo premises is the recalculated license fee amount calculated for the preceding license period.

(2) If the recalculation of the license fee amount for the previous license period reflects an underpayment of the license fee amount for that license period, the incremental difference must be submitted by the organization within 30 days of the license expiration date and before the license may be renewed.

(3) Upon written request by an organization to renew its license to lease bingo premises that is in or going in administrative hold, the organization shall pay a Class A license renewal fee, plus any amount due under paragraph (2) of this subsection, in lieu of the recalculated fee amount from the preceding license period. There is no renewal license fee for an organization renewing its license to conduct bingo that is in or going in administrative hold, but the license-class-related amount used solely by the Commission to estimate the pro rata local share of prize fees related to a license to conduct bingo for such an organization is a Class A fee amount.

(4) The Commission may require an amount of license fee in addition to the recalculated fee at renewal if there is a change in:

- (A) playing location; or
- (B) rental amount per occasion.

(5) If a commercial lessor or a licensed authorized organization which leases bingo premises requests its license be placed in administrative hold upon the renewal of its lessor license and submits the requisite fee as set in paragraph (3) of this subsection, the Commission may require the commercial lessor to submit an additional license fee when it files the application to amend a commercial license to lease bingo premises, if the commercial lessor amends its license to begin leasing bingo premises within the first six months of the license term.

(e) Two-Year License Fee Payments. An applicant for a commercial lessor license that is effective for two years must pay an amount equal to two times the amount of the annual license fee, as set in §402.404(a)(2).

(f) Regular License Class Recalculation.

(1) For the purpose of determining the license class recalculation for a license to conduct bingo or license to lease bingo premises, the annual gross receipts or gross rental income, as applicable, shall be based on the four consecutive quarterly returns due immediately prior to the license expiration date.

(2) For the purposes of determining the license class recalculation for a two year license to lease bingo premises, each year of the license period shall be recalculated separately. The final recalculated fee will be the total of the yearly license classes and their associated fees. The annual gross rental income shall be based on the four consecutive quarterly returns due immediately prior to the first year period and the four consecutive quarterly returns due immediately prior to the license expiration date of the second year period.

(3) For accounting units, gross receipts used to recalculate the license class apportioned to a unit member will be calculated by dividing the unit's gross receipts by the total number of members during the quarter.

(4) If an organization fails to file a report for one or more quarter(s) of the license period, or if there are not four quarters available for any other reason, the Commission shall average the quarterly gross receipts or gross rental income for the quarter(s) reported to determine the organization's license class.

(5) License no longer exists.

(A) Notwithstanding the fact that an organization which leased bingo premises under a license that ceased to exist for whatever

reason, the organization must submit the recalculated license fee for the period that the organization leased the premises and collected gross rental income.

(B) If an organization ceases to be licensed for whatever reason, all gross receipts or gross rental income collected (from the period after the last quarterly return used to recalculate the license class for the prior year) is used to recalculate the final license class, and if appropriate, any fee due. If the organization fails to file a return for any required period(s), an estimated return will be used. The organization shall submit any balance due after license class recalculation.

(6) The Commission may recalculate license classes for up to four consecutive immediately preceding license periods if a change in an organization's reported gross receipts or gross rental income occurs as a result of an audit, or if the original recalculation was determined by using estimated gross receipts or gross rental income.

(7) If there is a change in an organization's reported gross receipts or gross rental income, the organization may submit a written request to the Charitable Bingo Operations Division to recalculate its license class for up to four immediately preceding license periods.

(g) Overpayment of License Fee.

(1) An overpayment of a commercial lessor's annual license fee may occur either through a recalculation of the license fee pursuant to subsection (f) of this section, or if a licensee mistakenly submits more money than is actually required for the license fee(s). An overpayment of a manufacturer's or distributor's annual license fee occurs if a licensee mistakenly submits more money than is actually required for the license fee(s). The Commission will determine whether an overpayment has occurred on a case by case basis.

(2) Upon a determination that an overpayment of an annual license fee has occurred, the Charitable Bingo Operations Division shall credit the overpayment to the licensee. Overpayments credited to a licensee may be used for the licensee's outstanding bingo liabilities, including subsequent license fees, but the credits must be used within four years of the latest date on which the annual license fee was due. Overpayments credited to a licensee remain eligible for refund under subsection (h) of this section until the credits are used or the four year refund period expires, whichever comes first.

(3) Overpayments of annual license fees must either be used as credit or claimed for refund within four years of the latest date on which the annual license fees were due. If a licensee fails to use the credits or request a refund within this time period, the overpayments will be retained by the Commission.

(h) Refunds.

(1) An applicant or licensee may request a refund of the fee for an initial or renewal commercial lessor's license, initial or renewal distributor's license, or initial or renewal manufacturer's license if they request withdrawal of the application before the license is issued. Upon such a request, the Commission will retain the lesser of 50 percent of the fee or \$150 and refund the rest of the fee within 30 days of receiving the request.

(2) If the Commission denies an initial or renewal commercial lessor license application, initial or renewal distributor's license application, or initial or renewal manufacturer's license application, it will retain the lesser of 50 percent of the fee or \$150 and refund the rest of the fee within 30 days of denying the application.

(3) A current or former licensee that submits an overpayment of a regular license fee may be eligible to receive a refund of that overpayment, provided that the licensee or former licensee:



(A) submits a complete written request for a refund to the Commission within four years of the latest date the regular license fees were due;

(B) does not have any other outstanding bingo liabilities to the State; and

(C) if applicable, files all necessary quarterly reports.

(4) Upon the receipt and review of a timely and sufficient refund request, the Commission may either deny the refund request or certify to the Comptroller of Public Accounts that a refund is warranted. Pursuant to Government Code §403.077, if the Commission certifies to the Comptroller of Public Accounts that a refund is warranted, the ultimate decision on whether to grant the refund will still be made by the Comptroller of Public Accounts.

(i) Transfer of Commercial License to Lease Bingo Premises.

(1) All gross rental income collected in connection with a license to lease bingo premises that has been transferred during the term of the license shall be used to recalculate the license fee.

(2) A license fee credit in connection with a license to lease bingo premises that was transferred during the term of the license shall be credited to the current license holder at the time of license renewal.

(3) A license fee balance due for a license to lease bingo premises that was transferred during the term of the license shall be the liability of the current license holder at the time of license renewal.

(j) Temporary Authorization to Conduct Bingo.

(1) The amount of gross receipts collected in connection with a temporary authorization is used to calculate the regular license class.

(2) An organization conducting bingo pursuant to a temporary authorization must comply with the same statutory and administrative rule requirements and quarterly return filing requirements as an organization which has a regular license to conduct bingo.

#### *§402.408. Designation of Members.*

(a) To designate an individual as a member for purposes of Texas Occupations Code §2001.411(c-1) and other law, a licensed authorized organization must submit to the Commission a completed Designated Member form prescribed by the Commission and signed by the bingo chairperson.

(b) A licensed authorized organization is responsible for all of the bingo related activities conducted by its organization's members and designated members.

(c) A designated member or a licensed authorized organization may notify the Commission that the designated member's status has changed and is no longer bona fide by submitting:

(1) a completed form prescribed by the Commission, or

(2) a written notification signed by the bingo chairperson that states that the designated member's status has changed and is no longer bona fide and provides the effective date.

(d) Removal of a designated member from all positions held for the organization is effective on the latter of the date received by the Commission or a date indicated.

(e) A designated member of a licensed authorized organization may access the Bingo Services Portal in order to renew and print licenses.

#### *§402.420. Qualifications and Requirements for Conductor's License.*

An applicant must provide with its application documentation demonstrating that it meets all qualifications and requirements for a license to conduct bingo based on the type of organization it is. The qualifications, requirements, and necessary documentation for different types of organizations are shown in the chart below.

Figure: 16 TAC §402.420

[Figure: 16 TAC §402.420]

#### *§402.450. Request for Waiver.*

(a) Definition. The following word or term, when used in this chapter, shall have the following meaning, unless the context clearly indicates otherwise: Detrimental charitable purpose waiver (waiver)--A determination by the Commission authorized under §2001.451(k) of the Act to exempt a licensed authorized organization from the requirements of §2001.451 or §2001.457 of the Act because compliance with the requirement(s) of these sections is detrimental to the organization's existing or planned charitable purposes.

(b) Detrimental Charitable Purpose Waiver.

(1) A licensed authorized organization may submit to the Commission an Application for Waiver to be exempt from the requirements that:

(A) bingo operations must result in net proceeds over the organization's license period; or

(B) a licensed authorized organization must disburse the required amount of net proceeds for charitable purposes for a specific calendar quarter.

(2) An application for a waiver must include the following:

(A) the reason for the request;

(B) an explanation of how compliance with the requirement is detrimental to the organization's existing or planned charitable purposes;

(C) the intended purpose of future charitable distributions;

(D) the specific calendar quarter or license year for which the waiver is being requested, as applicable; and

(E) either of the following:

(i) a credible business plan; or

(ii) if the request is due to force majeure as defined in §402.453 of this subchapter, documentation from outside sources supporting force majeure. Examples of acceptable documentation include newspaper articles, copies of local ordinance changes, police or fire department reports, notification of road construction, or photographs.

(3) A Credible Business Plan may, but is not required to include the following:

(A) the stated project goal of the organization as it applies to the application for waiver;

(B) a detailed description of the charitable activities of the organization for the four quarters immediately preceding the application;

(C) a detailed description of the charitable activities of the proposed charitable activities for the time period of the request;

(D) a detailed explanation of the reason for the waiver request; and

(E) a detailed strategy of how the organization plans to correct its financial difficulties to ensure the bingo operations result in positive net proceeds.

(c) The Commission may request additional information or documentation as needed to consider the application for a waiver.

(d) The licensed authorized organization or unit must provide all information or documentation requested by the Commission within 21 calendar days of notice from the Commission. Failure to provide information or documentation requested by the Commission within the time frame indicated may result in disapproval of the application.

(e) Criteria for Approval of Waiver Applications. The Commission may consider the following in the approval of waiver applications:

(1) the credible business plan or force majeure that necessitates the organization's not meeting the requirements of §2001.451 or §2001.457 of the Act;

(2) the amount of net proceeds from licensed authorized organization's or unit's bingo operations during the past two years; and

(3) the length of time the organization has conducted bingo and two year compliance history.

(f) Within 21 calendar days of receipt of the written application for waiver and all required attachments and documentation, the Commission will notify the organization or unit in writing of its decision to approve or disapprove the application for a waiver.

#### *§402.451. Operating Capital.*

(a) Definitions. The following words or terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Average unit member operating capital--An amount equal to the allowable retained operating capital of the unit divided by the number of unit members.

(2) Bingo account--The bingo checking account, bingo savings account, and petty cash if bingo funds, of a licensed authorized organization or unit.

(3) Quarterly report--The Texas Bingo Quarterly Report.

(4) Retained operating capital limit--The maximum amount of funds that may be retained in the bingo account of a licensed authorized organization or unit, which is equal to the organization's or unit's actual quarterly average bingo expenses, excluding prizes paid, for the preceding license period but does not exceed \$50,000 per organization.

(b) The bingo account balance of a licensed authorized organization, reconciled to include outstanding checks and deposits in transit, on the last day of each calendar quarter may not exceed the total of:

(1) the organization's or unit's retained operating capital limit;

(2) prize fees held in the bingo account to be paid to the Commission and local governments, or to be retained under Bingo Enabling Act §2001.502(b)(2); and

(3) net proceeds from the conduct of bingo for the current quarter.

(c) Bingo account funds may be transferred between the bingo checking account, bingo savings account, and petty cash, where applicable. All funds from the bingo checking account, bingo savings account, and petty cash shall be included in the bingo account balance reported on the quarterly report on the last day of each calendar quarter, including funds in transit between the various accounts.

(d) Licensed Authorized Organization's Calculations.

(1) The retained operating capital limit for a licensed authorized organization with a one year license will be calculated based on the quarterly reports for the four (4) calendar quarters immediately preceding the license start date.

(2) The retained operating capital limit for a licensed authorized organization with a two year license will be calculated for each 12-month period of the license.

(3) The retained operating capital limit for a licensed authorized organization submitting the first renewal of its license to conduct bingo will be calculated based on the quarterly reports for the three (3) calendar quarters immediately preceding the license start date.

(4) The retained operating capital limit is effective for the four (4) calendar quarters beginning on the first day of the calendar quarter immediately following the license start date.

(e) Accounting Unit's Calculations.

(1) The retained operating capital limit for an accounting unit will be calculated based on the quarterly reports for the four (4) quarter period beginning October 1 through September 30 of each year.

(2) The retained operating capital limit for an accounting unit is effective from January 1 through December 31 of each year.

(f) A licensed authorized organization's or unit's most recent quarterly report information at the time of the calculation will be used to calculate its retained operating capital limit.

(g) Retained Operating Capital Limits.

(1) The retained operating capital in the bingo account of a licensed authorized organization may not exceed a total of \$50,000 for the first year of licensure.

(2) The retained operating capital in the bingo account of a newly formed unit may not exceed the total of the retained operating capital limits of all the licensed authorized organizations forming the unit.

(3) If a licensed authorized organization joins a unit, the retained operating capital in the unit's bingo account may be increased by an amount that is equal to the average unit member operating capital, not to exceed a total of \$50,000.

(4) If a licensed authorized organization withdraws from a unit and will no longer utilize unit accounting, its retained operating capital limit will be equal to the average unit member operating capital of the unit prior to withdrawal, not to exceed a total of \$50,000.

(5) Upon withdrawal of a unit member, the retained operating capital in the bingo account of a unit must be decreased by an amount that is equal to the average unit member operating capital by the last day of the calendar quarter immediately following the unit member's withdrawal date.

(h) Recalculation of Operating Capital.

(1) A licensed authorized organization or unit that files an original or amended quarterly report for a period used to calculate its retained operating capital limit may submit a written request to the Commission to re-calculate the limit.

(2) A request to re-calculate a retained operating capital limit must include:

(A) the reason for the request identifying the specific quarter that the original or amended quarterly report was filed; and

(B) the signature of the bingo chairperson if the request is submitted by a licensed authorized organization, the unit manager if

the unit is managed by a unit manager, or the designated agent if the unit is not managed by a unit manager.

(i) A licensed authorized organization or unit may apply for an increase in its retained operating capital limit.

(j) The failure of a licensed authorized organization or unit to receive notification from the Commission of its retained operating capital limit by the effective date does not relieve the organization or unit from complying with the retained operating capital limit.

(k) All net proceeds in excess of the retained operating capital limit must be disbursed in accordance with the Act and Rules.

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 E. BOOKS AND RECORDS

### 16 TAC §§402.502, 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.

#### *§402.502. Charitable Use of Net Proceeds Recordkeeping.*

(a) An organization must maintain and upon request make available to a representative of the Commission or designee:

- (1) a copy of the organization's organizing documents;
- (2) other enabling documents, any amendments and any adopted bylaws which provide in writing the specific cause, deed or activity that is consistent with the organization's purposes and objectives for which bingo net proceeds will be used; and
- (3) a copy of the applicant organization's four most recently filed Internal Revenue Service Form 990, if applicable.

(b) The Commission may request supplemental information from an organization in order to substantiate compliance with the Bingo Enabling Act, §2001.454.

(c) Record Keeping:

(1) In accordance with the Bingo Enabling Act, the licensed authorized organization must have documentation for all proceeds used for charitable purposes to substantiate the use of the funds for purposes consistent with the exempt purposes of the licensed authorized organization.

(2) All distributions for charitable purposes must be made from the bingo checking account. A distribution made from the bingo checking account into another account maintained by the organization

must be substantiated with documentation and used for a cause, deed, or activity dedicated to the charitable purposes of the organization consistent with the 26 U.S.C. §501 tax exemption of the organization or the purposes or objective for which the organization qualifies as an authorized organization.

(3) Accounting units must make distributions for charitable purposes from the unit bingo checking account to the unit member. The unit member must maintain sufficient documentation to verify the disbursed funds were used for its charitable purposes.

(4) A licensed authorized organization must maintain bank statements, canceled checks and deposits slips or images of them, and bank reconciliations for all accounts to which it deposits charitable distributions from the proceeds of bingo.

(5) A licensed authorized organization must maintain documentation for all charitable distributions made to individuals or other organizations. These may, but are not required to include:

(A) the complete name, address, phone number, and contact person for the individual or organization receiving the donation; and

(B) an invoice, receipt, thank you note, or other written acknowledgement of the distribution including the date and amount of the donation.

(6) A licensed authorized organization must maintain documentation for all charitable distributions used for its exempt purposes. Documentation may, but is not required to include [includes]:

(A) invoices, receipts, or other proof of payment for actual expenses incurred for these purposes; and

(B) calendars, floor plans, or other information used to pro-rate any expenses where only a portion of the expense is considered a legitimate exempt use of charitable distributions.

(7) A licensed authorized organization must maintain documentation for all charitable distributions as to how the use of the funds relates to the cause, deed, or activity dedicated to the charitable purposes of the organization consistent with the 26 U.S.C. §501 tax exemption of the organization or the purposes or objective for which the organization qualifies as an authorized organization.

(8) A licensed authorized organization must maintain minutes of any meeting where the use of bingo proceeds or other activities related to the conduct of bingo is discussed.

(9) An organization transferring funds to its bingo account in accordance with §2001.451 of the Act must maintain documentation showing that the transferred funds were not originally bingo proceeds.

(10) A licensed authorized organization must maintain for four years records to substantiate the use of net proceeds.

(11) Reimbursement or direct payment for member or employee travel expenses will only be considered as used for the charitable purposes of the organization if the following records are provided to the Commission upon request:

(A) the itinerary of a seminar, convention, or retreat showing that the purpose of the seminar, convention, or retreat was primarily to discuss the charitable functions and purposes consistent with the 26 U.S.C. §501 tax exemption of the organization or the purposes or objective for which the organization qualifies as an authorized organization; and

(B) the original or true and correct copies of receipts and cancelled checks showing the date and amount of the contribution for actual out-of-pocket reasonable or necessary expenses such as hotel,

airline tickets, meals, etc., and the corresponding request for payment or reimbursement maintained by the organization.

*§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.

(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 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) 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.

(j) Electronic gift certificates. A licensed authorized organization may issue a bingo gift certificate electronically on a gift card or otherwise, subject to the same restrictions and requirements as paper gift certificates.

*§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 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.

(f) The Commission shall provide a form for maintaining perpetual inventory. A license authorized organization may, but is not required to use the form.

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 F. PAYMENT OF TAXES, PRIZE FEES AND BONDS

### 16 TAC §402.601, §402.602

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.

#### *§402.601. Interest on Delinquent Tax.*

##### (a) Interest on Delinquent Tax.

(1) The yearly interest rate on delinquent prize fees [or rental taxes] is variable and is the prime rate plus one percent, as published in The Wall Street Journal on the first day of each calendar year that is not a Saturday, Sunday, or legal holiday.

(2) Delinquent taxes draw interest beginning 60 days after the date the taxes are due.

##### (b) Interest on Refund or Credit.

(1) Except as provided by paragraphs (1) and (2) of subsection (a), interest is at the rate set out in subsection (a)(1), for the amount found to be erroneously paid by the licensee for prize fees [fee or rental tax] for a period, as determined by the Charitable Bingo Operations Division; [.]

(A) beginning on the later of 60 days after the date of payment or the date the quarterly report is required to be filed with the Charitable Bingo Operations Division; and

(B) ending on either the date of allowance of credit on account of the Charitable Bingo Operations Division's decision or audit or a date not more than ten days before the date of the refund warrant, as determined by the Charitable Bingo Operations Division.

(2) A credit of \$100.00 or less entered by a licensed authorized organization or lessor on its quarterly report does not accrue interest. The credit will be preprinted on the quarterly report reflecting the amount of the credit to be taken from the current quarter. A credit taken by a licensed authorized organization or lessor on the quarterly report does not accrue interest.

(3) For a refund processed for a [tax or] fee due, the rate of interest is the rate set out in subsection (a)(1) of this section.

(4) A warrant for interest payments shall be drawn against the fund or account into which the overpaid prize fee [or rental tax] was deposited.

#### *§402.602. Waiver of Penalty, Settlement of Prize Fees, [Rental Tax] Penalty and/or Interest.*

(a) The Charitable Bingo Operations Director, for good cause shown, may waive a penalty if a licensee holding a license to conduct bingo or license to lease bingo premises exercised reasonable diligence to comply with Occupations Code, §2001.504. The Charitable Bingo Operations Division will not consider a request for a penalty or interest waiver until the principal related to the specific request is paid in full. To be considered, a written request stating the reason(s) penalty should be waived must be sent to the Charitable Bingo Operations Division within 14 days of the date the quarterly report and prize fees [and rental taxes] were due.

(1) The Charitable Bingo Operations Division will inform the licensee in writing within three days of the Charitable Bingo Operations Division's decision regarding the penalty waiver request after considering:

(A) Whether the licensee is current in the filing of all reports;

(B) Whether the licensee is current in the payment of all [taxes or] prize fees due for the last eight consecutive quarters;

(C) Whether a penalty has been waived within the last eight consecutive quarters;

(D) Whether the licensee has a good record of timely filing and paying past returns; and

(E) Whether the licensee has taken the necessary steps to correct the problem for future reporting.

(2) If a licensee has had a penalty waived within the last eight consecutive quarters, the current request will be denied.

(b) If a prize fee [or rental tax] is owed for an inactive account, the Charitable Bingo Operations Division will not consider a request for a penalty or interest waiver until the principal is paid in full. The Division will notify the inactive account that a prize fee [or rental tax] is owed and provide the inactive account with any existing documents that support the delinquency determination. The Division may provide such notice and documentation to any officer, director, or business contact listed in the inactive account's most recent filing with the Commission.

(c) Settlement of [rental tax; gross receipts tax;] prize fees [fee], penalty or interest on an inactive account. The Commission may settle a claim for [rental tax; gross receipts tax;] prize fees [fee], penalty, or interest if the total cost of collection, as determined by the Commission, would exceed the total amount due.

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 §§402.700, 402.702, 402.703

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.

#### §402.700. *Denials; Suspensions; Revocations; Hearings.*

(a) Denial of application. If the Director of the Charitable Bingo Operations Division determines that an applicant is not eligible for a license on statutory or regulatory grounds, or that the license should be denied on statutory or regulatory grounds which would justify temporary suspension or revocation of an existing license, he/she will notify the applicant in writing that the application has been denied and will state such grounds for the denial. If the applicant desires to contest the denial, the applicant must, within 30 days of the date of the notice of denial, make a written request for a hearing to contest the denial.

#### (b) Suspension and revocation.

(1) Grounds. The Commission may temporarily suspend or revoke a license or temporary authorization in accordance with the Bingo Enabling Act, §2001.355. If the Commission proposes to revoke or suspend a license it will notify the licensee in writing and will state the grounds for the proposed action.

(2) Temporary suspension. The Director may issue a temporary suspension based on evidence of the following violations: failure to pay prize fees, loss of non-profit status, or a conviction for a gambling-related offense or fraud. A temporary suspension is effective immediately. Upon notification of the temporary suspension, the Director will simultaneously serve a notice of a show cause hearing, to be held not later than the 14th day after the date the notice is served, at which the license holder must show cause why the license should not remain suspended. The notice will include any exhibits the Commission has at the time that it intends to rely on at the hearing. If the licensee fails to show cause why the license should not be temporarily suspended, the license will remain suspended pending a final hearing on the merits, notice of which will be provided within 30 days of the show cause hearing. [Grounds for temporary suspension of licenses; provisions for service of notice to licensees and show-cause hearings; and the time period for requesting final hearings on suspension or revocation of licenses, and other related matters are contained in the Bingo Enabling Act.]

#### (c) Hearings.

(1) All hearings will be conducted in accordance with the relevant portions of Title 16, Part 9, Chapter 401, Subchapter C.

(2) After a hearing on the alleged violation and upon finding that a violation did occur, the Commission may temporarily sus-

pend a license or temporary authorization for a period not to exceed one year or may revoke a license or temporary authorization. The period of a suspension begins on the date of the order invoking the suspension, or the date of the order overruling the motion for rehearing, if one was filed.

(3) In the event a licensee has requested an administrative hearing, and has made timely and sufficient application for renewal of its license, the licensee may be issued a temporary authorization to conduct bingo and continue to act pursuant to said authorization until the Commission issues a final decision, regardless of whether said license has expired during the hearing process.

(d) Reapplication. No person or organization whose license has been revoked or forfeited, or whose application has been denied for reasons which would justify a revocation of an existing license will be eligible to apply for another license earlier than one year from the date of forfeiture, revocation, or denial.

#### §402.702. *Disqualifying Convictions.*

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

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

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

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

- (A) Penal Code, Chapter 32, Fraud;
- (B) Penal Code, Chapter 35, Insurance Fraud;
- (C) Penal Code, Chapter 35A, Medicaid Fraud; or

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

(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 under §3g, Article 42A.054 [42.12] of the Code of Criminal Procedure; or

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

(d) For offenses that do not fall under subsection (b) or (c) of this section, such as offenses for which a person pleaded nolo contendere and/or received deferred adjudication and court supervision, and except as provided in subsection (a) of this section, the Commission may apply the provisions of Chapter 53, Occupations Code, to determine whether or not the applicant is eligible for a new or renewal license, or registry listing, under the BEA. For [Generally, for] purposes of applying Chapter 53, the Commission may [will] consider an applicant's deferred adjudication for a gambling or gambling-related offense, or a criminal fraud offense, to be a conviction in accordance with §53.021(d), Occupations Code.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(8) Penal Code, Chapter 22, Assaultive Offenses;

(9) Tex. Health and Safety Code, Chapter 481, Manufacture, Delivery, or Possession with Intent to Deliver Controlled Substances; and

(10) [(8)] Any offense committed, including in another state or Federal jurisdiction involving substantially similar conduct as an offense in the applicable sections of Penal Code, Chapters 22, 30, 31, 33, 34, 36, 37, 71, Tex. Health and Safety Code, Chapter 481, or the BEA.

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

(1) The nature and seriousness of the crime;

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

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

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

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

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

(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 and veteran's status, including discharge status.

(i) Upon notification of the Commission's intent to deny a new or renewal application or registry listing, an applicant may provide documentation of mitigating factors that the applicant would like the Commission to consider regarding its application. Such documenta-

tion must be provided to the Commission no later than 20 days after the Commission provides notice to an applicant of a denial, unless the deadline is extended in writing or through e-mail by authorized Commission staff.

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

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

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

#### §402.703. *Audit Policy.*

##### (a) Definitions.

(1) **Audit**--The formal examination of a licensee's accounts, records, and/or business activities by designated employees or representatives of the Commission.

(2) **Audit fieldwork**--Includes, but is not limited to, the physical inspection of bingo premises, the observation of a bingo game, the inquiry of management and staff, the review of financial accounts, records or business processes, the assessment of the adequacy of any internal controls, or any other activity necessary to meet audit objectives.

(3) **Licensee**--Includes any individual, partnership, corporation, group, or entity licensed under the Bingo Enabling Act and any group of licensed authorized organizations operating under a unit agreement.

##### (b) Audit Determination.

(1) The purpose of an audit is to determine whether a licensee is, has been, and/or will remain in compliance with the Bingo Enabling Act and the Charitable Bingo Administrative Rules.

(2) Those licensees who are most at risk of violating the Bingo Enabling Act or the Charitable Bingo Administrative Rules will be identified for audit based on risk factors established by the Commission. Risk factors may be based on, among other things, a licensee's gross receipts, gross rentals, bingo expenses, net proceeds, and/or charitable distributions. An audit must commence by the fourth anniversary of the date a licensee is identified for audit.

(3) Notwithstanding paragraph (2) of this subsection, the Commission may audit any licensee if the Commission reasonably believes the licensee may violate, or may have violated, the Bingo Enabling Act or the Charitable Bingo Administrative Rules.

##### (c) Notification.

(1) If a licensee is selected for an audit pursuant to subsection (b) of this section, a Commission auditor will so notify that licensee's bingo chairperson, director, business contact, officer, unit manager, or designated agent in writing. The written notification constitutes the beginning of the audit.

(2) The written notification will identify the time period to be audited and any records or other information that must be made available for Commission review. Various forms, including questionnaires and physical inventory requests, may be included with the written notification. Licensees must complete any forms in the manner, and in the time period, specified by the Commission.

(3) If the Commission does not receive a timely response to its initial request for records, it will provide the licensee with a second and final request to provide all records within ten (10) calendar days. The Commission will not examine any records that are sent after that deadline, and the licensee will be responsible for any audit findings involving the absence of those records.

##### (d) Entrance Conference.

(1) Within ten (10) calendar days of sending the written notification under subsection (c) of this section, an auditor will attempt to contact the selected licensee's bingo chairperson, director, business contact, officer, unit manager, or designated agent to schedule an audit entrance conference. Unless otherwise provided by the Commission, the audit entrance conference will be held within fourteen (14) calendar days from the auditors contact with the licensee. The licensee may submit a written request to the Commission to delay the audit entrance conference. The written request must include the reasons for the requested delay. After reviewing a properly submitted written request to delay, the Commission may either approve or deny the request or notify the licensee that additional information is needed before a decision is made. If the Commission and licensee are unable to agree on the date, time, and place of the audit entrance conference, or if the Commission auditor is unable to contact the licensee's bingo chairperson, director, business contact, officer, unit manager, or designated agent, the auditor shall schedule the audit entrance conference and send the licensee written notice of that fact at least ten (10) calendar days prior to the scheduled audit entrance conference.

(2) The purpose of an audit entrance conference is to allow the auditor(s) to meet with the selected licensee's bingo chairperson, director, business contact, officer, unit manager, or designated agent to collect any records or other information identified in the written notification under subsection (c) of this section, to discuss the audit process, and to answer any questions the licensee may have regarding the audit. There is no standard timeline by which an audit will be completed, but an audit must be completed within one year [two years] from the date of the entrance conference unless the Director extends the time period and notifies the licensee of the extension.

(3) The Commission may request the attendance at the audit entrance conference of any person familiar with the licensee's operations. In addition to any attendees requested by the Commission, the licensee may allow any other individuals to attend the audit entrance conference.

(e) **Audit Fieldwork.** Any time after the conclusion of the audit entrance conference, the auditor(s) may initiate and conduct the audit fieldwork at the licensee's business office, bingo premises, bookkeeper's office, or accountant's office; or, a location designated by the auditor(s). When conducting audit fieldwork, the auditor(s), at their discretion, may use a detailed auditing procedure or a sample and projection auditing method. A sample and projection auditing method may include, but is not limited to, manual sampling techniques, computer-assisted audit techniques, analytical procedures, financial projections, and auditor recompilation from reliable independent sources.

##### (f) Exit Conference.

(1) Any time after the completion of the audit fieldwork, an auditor will attempt to contact the selected licensee's bingo chairperson, director, business contact, officer, unit manager, or designated agent to schedule an audit exit conference. If the auditor and licensee are unable to agree on the date, time, and place of the audit exit conference, or if the auditor is unable to contact the licensee's bingo chairperson, director, business contact, officer, unit manager, or designated agent, the auditor shall schedule the audit exit conference and send the



licensee written notice of that fact at least ten (10) calendar days prior to the scheduled audit exit conference.

(2) The purpose of an audit exit conference is to allow the auditor(s) to meet with the selected licensee's bingo chairperson, director, business contact, officer, unit manager, or designated agent to discuss the results of the audit and the draft audit report.

(3) The Commission may request the attendance at the audit exit conference of any person familiar with the licensee's operations. In addition to any attendees requested by the Commission, the licensee may allow any other individuals to attend the audit exit conference.

(g) Audit Report.

(1) Upon completion of the audit, the auditor(s) will prepare a draft audit report containing their findings and conclusions. A copy of the draft audit report will be provided to the licensee at the audit exit conference. At least three (3) business days before the audit exit conference, but only to the extent it is practicable, the Commission will also send a copy of the draft audit report to one e-mail address or facsimile number associated with the licensee. The licensee must notify the Commission of the designated e-mail address or facsimile number by the end of the audit entrance conference if the licensee is to receive a copy of the draft audit report prior to the audit exit conference.

(2) A licensee may, but is not required to, respond to the draft audit report by providing written comments and any supporting documentation to the auditor(s) within twenty (20) calendar days of receiving the draft audit report. Written comments should include a statement of agreement or disagreement with the draft audit report findings and, if applicable, a list of any corrective measures that will be taken to ensure compliance with the Bingo Enabling Act and Charitable Bingo Administrative Rules. Any properly submitted comments and supporting documents will be reviewed by the auditor(s) and placed in the final audit report. The auditor(s) may revise the draft audit report in response to any properly submitted comments or supporting documents.

(3) Any time after the twenty (20) calendar day deadline, the auditor(s) may issue the final audit report. A copy of the report will be provided to the licensee.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on August 10, 2020.

TRD-202003282

Bob Biard

General Counsel

Texas Lottery Commission

Earliest possible date of adoption: September 20, 2020

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

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**TITLE 19. EDUCATION**

**PART 1. TEXAS HIGHER EDUCATION  
COORDINATING BOARD**

**CHAPTER 1. AGENCY ADMINISTRATION  
SUBCHAPTER T. WORKFORCE EDUCATION  
COURSE MANUAL ADVISORY COMMITTEE  
19 TAC §1.223**

The Texas Higher Education Coordinating Board proposes amendments to Texas Administrative Code (TAC), Title 19, Part 1, Chapter 1, Subchapter T, §1.223 concerning the duration for the Workforce Education Course Manual Advisory Committee. The proposed amendment would allow the committee to continue in existence until January 31, 2025. The Board will continue the committee in order to provide the Board with advice and recommendation(s) regarding content, structure, currency and presentation of the Workforce Education Course Manual (WECM) and its courses; recommendations regarding field engagement in processes, maintenance, and use of the WECM; and assistance in identifying new programs of study, developments within existing programs represented by courses in the manual, vertical and horizontal alignment of courses within programs, and obsolescence of programs of study and courses.

Dr. Stacey Silverman, Assistant Commissioner of Academic Quality and Workforce, has determined that for the first five years there will be no fiscal implications for state or local government as a result of amending the rule. There are no individuals or institutions required to comply with the rule and, therefore, no costs to individuals or institutions.

Dr. Stacey Silverman, Assistant Commissioner of Academic Quality and Workforce, has also determined that for the first five years the section is in effect, the public benefit anticipated as a result of administering the section will be that the Workforce Education Course Manual Advisory Committee will continue to serve the Coordinating Board through January 31, 2025. There is no effect on small businesses. There are no anticipated economic costs to persons who are required to comply with the section as proposed. There is no impact on small businesses, micro businesses, or rural communities.

**Government Growth Impact Statement:**

- (1) the rule will not create or eliminate a government program;
- (2) implementation of the rule will not require the creation or elimination of employee positions;
- (3) implementation of the rule will not require an increase or decrease in future legislative appropriations to the agency;
- (4) the rule will not require an increase or decrease in fees paid to the agency;
- (5) the rule will not create a new rule;
- (6) the rule will not limit or repeal an existing rule; and
- (7) the rule will not change the number of individuals subject to the rule; and
- (8) the rule will have no affect the state's economy.

Comments on the proposal may be submitted to Stacey Silverman, Assistant Commissioner, Academic Quality and Workforce, Texas Higher Education Coordinating Board, P.O. Box 12788, Austin, Texas, 78711 or via email at [AQW@highered.texas.gov](mailto:AQW@highered.texas.gov). Comments will be accepted for 30 days following publication of the proposal in the *Texas Register*.

The amendments are proposed under the Texas Education Code, Chapter 61, Section 61.026, which provides the Coordinating Board with the authority to adopt rules regarding an advisory committee's terms of service and Texas Education Code Section 130.155 which authorizes the Board to adopt rules to administer Workforce Continuing Education.