





# INTEROFFICE MEMO

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**To:** Robert G. Rivera, Chairman  
Cindy Fields, Commissioner  
Mark A. Franz, Commissioner  
Clark E. Smith, Commissioner  
Jamey Steen, Commissioner

**From:** Bob Biard, General Counsel *RJB*

**Date:** October 29, 2024

**Re:** Consideration of and possible discussion and/or action, including readoption, on the review of the Commission's rules set forth in 16 TAC Chapter 401, relating to Administration of State Lottery Act; Chapter 402, relating to Charitable Bingo Operations Division; and Chapter 403, relating to General Administration.

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Attached are three (3) draft submissions to the *Texas Register* to readopt the Texas Lottery Commission's (Commission) rules at 16 Texas Administrative Code (TAC) Chapter 401 (titled Administration of State Lottery Act), Chapter 402 (titled Charitable Bingo Operations Division), and Chapter 403 (titled General Administration), and to conclude the review of those rules.

On October 12, 2023, the Commission initiated this proceeding pursuant to Tex. Gov't Code §2001.039 (Agency Review of Existing Rules), which requires a state agency to review all of its rules every four years. The review must include an assessment of whether the reasons for adopting each of the rules continue to exist. The names and numbers of the rules contained in Chapters 401, 402, and 403 are listed in the attached draft submissions. The Commission's notice of intent to review Chapters 401, 402, and 403 rules was published in the October 27, 2023, issue of the *Texas Register* (48 TexReg 6393) (also attached).

The Commission received no written comments during the public comment period, but received oral comments regarding Chapter 402 from the Bingo Advisory Committee (BAC) and other industry stakeholders at BAC meetings on April 3, 2024, June 5, 2024, and August 6, 2024. On August 7, 2024, during a meeting of the Commission, BAC Chairman Trace Smith informed the Commissioners that the BAC supports closing the rule review process and moving forward with the proposed rulemaking.

As a result of the rule review, and as discussed in the draft readoption documents, the Commission has determined that the reasons for adopting each of the rules in Chapters 401, 402, and 403 continue to exist, and that some rules in Chapter 401 need to be amended, and some rules in Chapter 402 need to be added, amended, or repealed and replaced for organizational purposes, actions which will be proposed in separate rulemaking proceedings.

Recommendation: Staff recommends that the Commission approve readoption of the Commission's rules at 16 TAC Chapter 401, relating to Administration of State Lottery Act; 16 TAC Chapter 402, relating to Charitable Bingo Operations Division; and 16 TAC Chapter 403, relating to General Administration.



1           The Texas Lottery Commission (Commission) has reviewed the Commission’s rules at 16  
2 Texas Administrative Code (TAC) Chapter 401 (Administration of State Lottery Act) in  
3 accordance with the requirements of Texas Government Code §2001.039 (Agency Review of  
4 Existing Rules), and hereby readopts the rules in Chapter 401. The Commission has determined  
5 that the reasons for adopting each of the rules in Chapter 401 continue to exist, as discussed below.  
6 As a result of this review, and as discussed below, the Commission has determined that some rules  
7 in Chapter 401 need to be amended, actions which will be proposed in a separate rulemaking  
8 proceeding.

9           Among the more significant changes, the proposed amendments will address issues  
10 identified as rulemaking gaps in the May 2024 Texas Sunset Advisory Commission Staff Report  
11 (Staff Report). Specifically, the Staff Report noted that there was “no clarification as to whether  
12 internet sales of lottery products are prohibited” (addressed in Rules 401.153(b)(12),  
13 401.158(b)(27), 401.160(h), and 401.355(a)), and “no explanation of what it means for a person  
14 to ‘engage in a business exclusively as a (lottery) sales agent’ for purposes of licensure” (addressed  
15 in Rule 401.153(b)(13)).

16           The proposed rule amendments will also clarify procurement procedures and the time  
17 period a bidder or proposer has to respond to an appeal of certain protest decisions issued by the  
18 agency in procurements; update several definitions; update a provision in the scratch ticket game  
19 rule to make it more consistent with the draw game rule; update the scratch and draw ticket prize  
20 claim processes; and update the language regarding lottery security to state that several divisions  
21 of the Commission are responsible for developing and maintaining security plans and procedures,  
22 and confirming that these plans and procedures are protected from required public disclosure as  
23 allowed under the Texas Public Information Act.

1           The Chapter 401 rules consist of seven (7) subchapters with a total of sixty-seven (67)  
2 rules. Subchapter A (Procurement) includes the following rules:

3   §401.101 – Lottery Procurement Procedures

4   §401.102 – Protests of the Terms of a Formal Competitive Solicitation

5   §401.103 – Protests of Contract Award

6   §401.104 – Contract Monitoring Roles and Responsibilities

7   §401.105 – Major Procurement Approval Authority, Responsibilities and Reporting

8           Because the Commission contracts for certain lottery-related goods and services, the  
9 Subchapter A procurement rules are necessary for the administration and operation of the lottery;  
10 thus, the reasons for these rules continue to exist.

11           The Commission, however, will propose amendments to Rule 401.101 to clarify the rules  
12 governing the Invitation for Bid (IFB) procurement method by reorganizing the section and by  
13 adding language that describes the process used for IFBs. The proposed amendments will also  
14 clarify certain differences between the Request for Proposals (RFP) and IFB procurement methods.

15           The proposed amendments to Rule 401.102 will add language stating that the email address  
16 designated by the vendor for correspondence in the procurement will also serve as the email  
17 address for notice of proceedings and decisions under this section.

18           The proposed amendments to Rule 401.103(g) will clarify the time period a successful  
19 bidder or proposer has to respond to an appeal of an agency determination of a vendor's protest to  
20 a contract award resulting from a competitive solicitation. Also, the proposal will add language  
21 stating that the email address designated by the vendor for correspondence in the procurement will  
22 also serve as the email address for notice of proceedings and decisions under this section.

1           The proposed amendments to Rule 401.104 will clarify that the agency may assign  
2   designated personnel to monitor contract compliance and facilitate historically underutilized  
3   business participation, in addition to the existing divisions within the agency that handle these  
4   matters.

5           Subchapter B (Licensing of Sales Agents) includes the following rules:

6   §401.152 – Application for License

7   §401.153 – Qualifications for License

8   §401.155 – Expiration of License

9   §401.156 – Renewal of License

10   §401.157 – Provisional License

11   §401.158 – Suspension or Revocation of License

12   §401.159 – Summary Suspension of License

13   §401.160 – Standard Penalty Chart

14           The Commission licenses approximately twenty-one thousand (21,000) lottery ticket sales  
15   agents in Texas. The Subchapter B rules set forth the license application and renewal process,  
16   qualification requirements, license terms, and disciplinary process applicable to lottery ticket sales  
17   agents. These rules are necessary for the administration of the Commission's lottery licensing  
18   program; thus, the reasons for adopting them continue to exist.

19           The Commission, however, has determined that proposed amendments to Rule  
20   401.153(b)(12) are necessary to clarify that an application for a sales agent license will be denied  
21   if the applicant intends to sell lottery tickets via the internet, and proposed amendments to Rule  
22   401.153(b)(13) are needed to reiterate the prohibition in the State Lottery Act that an application  
23   for a sales agent license will be denied if the applicant intends to engage in business exclusively

1 as a Texas Lottery ticket sales agent (as defined in the proposed amendments). This change will  
2 address gaps that were identified by the Staff Report.

3 Proposed amendments to Rule 401.153 will also add a provision that, based upon  
4 consideration of the factors in Rule 401.160(g), the director may determine a person or  
5 organization whose license has been revoked, surrendered or denied is not eligible to apply for  
6 another license for one year.

7 The proposed amendments to Rule 401.158(b)(23) will make it an express violation to  
8 require a purchaser to buy additional items when paying for lottery tickets with a debit card and  
9 the proposed amendments to Rule 401.158(b)(27) will make it an express violation to sell lottery  
10 tickets over the internet.

11 The proposed amendments to Rule 401.160 will update the penalty chart and correspond  
12 with the proposed amendments to Rules 401.158(b)(23) and (27) referenced above.

13 Subchapter C (Practice and Procedure) includes the following rules:

14 §401.201 – Intent and Scope of Rules

15 §401.202 – Construction of Rules

16 §401.203 – Contested Cases

17 §401.205 – Initiation of a Hearing

18 §401.207 – Written Answer; Default Proceedings

19 §401.211 – Law Governing Contested Cases

20 §401.216 – Subpoenas, Depositions, and Orders to Allow Entry

21 §401.220 – Motion for Rehearing

22 §401.227 – Definitions



1 Subchapter C includes rules applicable to enforcement matters and other contested  
2 proceedings involving a lottery or bingo licensee or applicant under the State Lottery Act or the  
3 Bingo Enabling Act, respectively. In addition, the Texas Administrative Procedure Act at  
4 §2001.004 requires state agencies to adopt such rules of practice. Thus, the reasons for adopting  
5 the Subchapter C rules continue to exist. No substantive amendment or repeal of these rules is  
6 recommended at this time.

7 Subchapter D (Lottery Game Rules) includes the following rules:

8 §401.301 – General Definitions

9 §401.302 – Scratch Ticket Game Rules

10 §401.303 – Grand Prize Drawing Rule

11 §401.304 – Draw Game Rules (General)

12 §401.305 – “Lotto Texas” Draw Game Rule

13 §401.306 – Video Lottery Games

14 §401.307 – “Pick 3” Draw Game Rule

15 §401.308 – “Cash Five” Draw Game Rule

16 §401.309 – Assignability of Prizes

17 §401.310 – Payment of Prize Payments Upon Death of Prize Winner

18 §401.312 – “Texas Two Step” Draw Game Rule

19 §401.313 – Promotional Drawings

20 §401.314 – Retailer Bonus Programs

21 §401.315 – “Mega Millions” Draw Game Rule

22 §401.316 – “Daily 4” Draw Game Rule

23 §401.317 – “Powerball” Draw Game Rule

1 §401.318 – Withholding of Delinquent Child-Support Payments from Lump-sum and Periodic  
2 Installment Payments of Lottery Winnings in Excess of Six Hundred Dollars

3  
4 §401.319 – Withholding of Child-Support Payments from Periodic Installment Payments of  
5 Lottery Winnings

6  
7 §401.320 – “All or Nothing” Draw Game Rule

8 §401.321 – Scratch Tickets Containing Non-English Words

9 §401.324 – Prize Winner Election to Remain Anonymous

10 Subchapter D includes the Commission’s lottery game rules. These rules provide  
11 information regarding how Texas Lottery scratch ticket and draw games are played, the prizes that  
12 can be won, the methods by which lottery tickets may be claimed and validated, as well as  
13 information relating to debt set-off for child-support payments, retailer bonus programs, payment  
14 of prize money to the estate of a deceased prize winner, and statements to be included in court  
15 orders involving assignments of prize payments. Because the Commission generates revenue for  
16 the state through the sale of lottery game tickets, the reasons for adopting each of these rules  
17 continue to exist.

18 The Commission, however, has determined that amendments to Rule 401.301(1), (4), (51),  
19 and (55) are necessary to make minor updates to multiple definitions to increase the clarity of those  
20 definitions. The proposed amendments will also add a definition of “Present at the terminal” that  
21 was deleted in a non-substantive rule amendment in August 2020. The purpose of re-inserting the  
22 definition, in combination with the related proposed amendment to Rule 401.304(b)(3), is to dispel  
23 any misconception that the deletion was substantive and make clear that all aspects of a sales  
24 transaction under Rule 401.304 must take place at the retail location.

25 The proposed amendments to Rule 401.302(a)(1) will add language from Rule  
26 401.304(b)(3) (Draw Game Rules (General)) regarding the requirement that all aspects of a ticket

1 purchase must take place at a licensed retail location, to make Rule 401.302 more consistent with  
2 Rule 401.304. The proposed amendments to Rule 401.302(e)(6) and (f)(2) will update the rule by  
3 requiring all scratch ticket prize claim processes to be made in accordance with Commission  
4 procedures and deleting requirements that are inapplicable to mobile prize claims.

5 The proposed amendments to Rule 401.304(b)(3) will add language that was deleted in a  
6 non-substantive rule amendment in 2020 to reiterate and clarify that no part of a draw game ticket  
7 sale may take place away from the terminal. The proposed amendments to Rule 401.304(d)(3) will  
8 update the rule by requiring all draw ticket prize claim processes to be made in accordance with  
9 Commission procedures and deleting requirements that are inapplicable to mobile prize claims.

10 Subchapter E (Retailer Rules) includes the following rules:

11 §401.351 – Proceeds from Ticket Sales

12 §401.352 – Settlement Procedures

13 §401.353 – Retailer Settlements, Financial Obligations, and Commissions

14 §401.355 – Restricted Sales

15 §401.357 – Texas Lottery as Retailer

16 §401.360 – Payment of Prizes

17 §401.361 – Required Purchases of Lottery Tickets

18 §401.362 – Retailer's Financial Responsibility for Lottery Tickets Received and Subsequently  
19 Damaged or Rendered Unsaleable, for Winning Lottery Tickets Paid and for Lottery-Related  
20 Property

21  
22 §401.363 – Retailer Record

23 §401.364 – Training

24 §401.366 – Compliance with All Applicable Laws

25 §401.368 – Lottery Ticket Vending Machines

1 §401.370 – Retailer’s Financial Responsibility for Lottery Tickets Received and Subsequently  
2 Stolen or Lost

3  
4 §401.371 – Collection of Delinquent Obligations for Lottery Retailer Related Accounts

5 §401.372 – Display of License

6 As noted above, the Commission licenses approximately 21,000 lottery ticket sales agents.  
7 The Subchapter E rules set forth the operational requirements, duties, and obligations of sales  
8 agents, including their financial responsibility to the State of Texas. These rules are necessary for  
9 the administration and effective oversight of Texas Lottery ticket sales; thus, the reasons for  
10 adopting these rules continue to exist.

11 The Commission, however, has determined that amendments to Rule 401.355(a) are  
12 necessary to clarify that retailers shall not sell lottery tickets via the internet, a gap that was  
13 identified by the Staff Report, and the proposed amendments to Rule 401.355(b) will update a  
14 cross-reference.

15 Subchapter F (ADA Requirements) includes the following rules:

16 §401.401 – Definitions

17 §401.402 – General Requirements

18 §401.403 – Readily Achievable Barrier Removal

19 §401.404 – Priority of ADA Compliance by Lottery Licensees

20 §401.405 – Alternatives to Barrier Removal

21 §401.406 – Future Alterations to a Lottery Licensed Facility

22 §401.407 – Complaints Relating to Non-accessibility

23 §401.408 – Requests for Hearings

24 The Subchapter F rules address the prohibition against discrimination imposed by the  
25 federal Americans with Disabilities Act (ADA), compliance by licensed lottery ticket sales agents

1 with ADA accessibility requirements, and the procedure for the Commission to receive and to  
2 address complaints regarding discrimination or accessibility under the ADA. Because the  
3 designated location of a Texas Lottery ticket sales agent license is subject to the ADA's  
4 requirements, the reasons for adopting each of these rules continue to exist. No substantive  
5 amendment or repeal of these rules is recommended at this time.

6 Subchapter G (Lottery Security) includes the following rule:

7 §401.501 – Lottery Security

8 The reasons for adopting §401.501, regarding the Commission's statutory mandate to  
9 ensure the security and integrity of the Texas Lottery, and to maintain a security plan and other  
10 security procedures, continue to exist.

11 The Commission, however, will propose amendments to Rule 401.501 to update the  
12 language regarding lottery security to state that several divisions of the Commission are  
13 responsible for developing and maintaining security plans and procedures, including information  
14 security, gaming security, and facility security as required by the State Lottery Act to ensure the  
15 integrity and security of the lottery games, and confirming that these plans and procedures are  
16 protected from required public disclosure as allowed under the Texas Public Information Act.

17 The Commission will propose amendments to the rules requiring amendments in a separate  
18 rulemaking action.

19 This review and readoption has been conducted in accordance with the requirements of  
20 Texas Government Code §2001.039. The Commission received no comments on the proposed  
21 review, which was published in the October 27, 2023 issue of the *Texas Register* (48 TexReg  
22 6393).

23 This action concludes the Commission's review of 16 TAC Chapter 401.



1           The Texas Lottery Commission (Commission) has reviewed the Commission’s rules at  
2   16 Texas Administrative Code (TAC) Chapter 402 (Charitable Bingo Operations Division) in  
3   accordance with the requirements of Texas Government Code §2001.039 (Agency Review of  
4   Existing Rules), and hereby readopts the rules in Chapter 402. The Commission has determined  
5   that the reasons for adopting each of the rules in Chapter 402 continue to exist, as discussed  
6   below. As a result of this review, and as discussed below, the Commission has determined that  
7   some rules in Chapter 402 need to be repealed, added, or amended, actions which will be  
8   proposed in a separate rulemaking proceeding. The repeal of several rules is for organizational  
9   purposes only and their substance will remain in other rules. Further, the Commission notes that  
10   the Bingo Advisory Committee (BAC) met on April 3, 2024, June 5, 2024, and August 6, 2024,  
11   to discuss this rule review and presented the staff with its recommendations and comments. On  
12   August 7, 2024, during a meeting of the Commission, BAC Chairman Trace Smith informed the  
13   Commissioners that the BAC supports closing the rule review process and moving forward with  
14   the proposed rulemaking. The purpose of the BAC includes advising the Commission on the  
15   needs and problems of the state’s bingo industry and to report their activities to the Commission.  
16   The Commission hereby takes the BAC’s recommendations under advisement and will continue  
17   to work with the BAC and industry stakeholders on future rulemaking initiatives.

18           Among the more significant changes, the proposed amendments will address issues  
19   identified as rulemaking gaps in the May 2024 Texas Sunset Advisory Commission Staff Report  
20   (Staff Report). Specifically, the Staff Report noted that there was “no clarification of what  
21   classifies as a bingo hall’s ‘premises’...” (addressed in Rule 402.100), “no clarification that  
22   bingo products may not be purchased using a credit card ...” (addressed in Rule 402.200), “no  
23   clarification of how certain grandfathered bingo licenses may be transferred” (addressed in Rule

402.443), and “no definition of what constitutes a repeat violation ...” (addressed in Rule 402.706). The Staff Report also recommended considering a licensee’s compliance history in audit determinations (addressed in Rule 402.703) and eliminating warnings for serious offenses and repeat violations of less serious offenses (addressed in Rules 402.706 and 402.707).

The proposed amendments will also amend aspects of the BAC to ensure that it complies with the Bingo Enabling Act (BEA); break two comprehensive rules on pull-tabs and bingo paper into multiple smaller rules for ease of reference; create a single standard for determining when a form, report, application, or payment has been mailed to the Commission; clarify and update agency processes; eliminate references to terms, laws, and processes that are no longer in place; and conform the rules to the BEA.

The Chapter 402 rules consist of seven (7) subchapters with a total of seventy-nine (79) rules. Subchapter A (Administration) consists of the following rules:

§402.100 – Definitions

§402.101 – Advisory Opinions

§402.102 – Bingo Advisory Committee

§402.103 – Training Program

§402.104 – Delinquent Obligations

Subchapter A consists of rules addressing the Commission’s administration of charitable bingo and the process for handling delinquent obligations owed to the Commission.

Rule 402.100 remains necessary and the reasons for initially adopting the rule continue to exist because this rule defines key terms used throughout the Chapter 402 rules.

Rule 402.101 remains necessary and the reasons for initially adopting the rule continue to exist, because this rule provides details regarding the process for requesting and issuing bingo



1 advisory opinions, which is a duty imposed upon the Commission under Texas Occupations  
2 Code §2001.059.

3 Rule 402.102 governs the operations of the BAC and the reasons for initially adopting the  
4 rule continue to exist.

5 Rule 402.103 remains necessary and the reasons for initially adopting the rule continue to  
6 exist, because the rule implements Texas Occupations Code §2001.107, which requires the  
7 Commission to establish by rule a training program for certain individuals associated with bingo  
8 conductors.

9 Finally, Rule 402.104 remains necessary and the reasons for initially adopting the rule  
10 continue to exist, because this rule implements Texas Government Code §2107.002, which  
11 requires all state agencies to establish procedures by rule for collecting delinquent obligations.

12 The Commission, however, intends to propose amendments to Rules 402.100, 402.101,  
13 402.102, 402.103, and to propose a new rule at 402.105.

14 The proposed amendments to Rule 402.100 will include a definition of “premises”, as  
15 noted in the Staff Report.

16 The proposed amendments to Rule 402.101 will change a reference to the bingo  
17 operations director from “his” to “his or her” and eliminate the requirement that the general  
18 counsel approve bingo advisory opinions before they are issued.

19 The proposed amendments to Rule 402.102 are necessary to ensure that the BAC  
20 appointment process complies with the Bingo Enabling Act (BEA) and to allow for virtual  
21 meetings.

1           The proposed amendments to Rule 402.103 are needed to reflect that the agency does not  
2 always offer conductors on-site training and to codify the agency's practice that non-regular  
3 conductors are not subject to training requirements.

4           The proposed new Rule 402.105 will provide a single standard for determining the  
5 delivery date of all submissions to the agency. No other substantive amendments are  
6 recommended at this time.

7           Subchapter B (Conduct of Bingo) consists of the following rules:

8   §402.200 – General Restrictions on the Conduct of Bingo

9   §402.201 – Prohibited Bingo Occasion

10   §402.202 – Transfer of Funds

11   §402.203 – Unit Accounting

12   §402.204 – Prohibited Price Fixing

13   §402.205 – Unit Agreements

14   §402.210 – House Rules

15   §402.211 – Other Games of Chance

16   §402.212 – Promotional Bingo

17           Subchapter B consists of rules governing the conduct and operation of charitable bingo,  
18 the creation and operation of bingo units, the transfer of funds into an organization's bingo  
19 account, the prohibition on price fixing for bingo equipment, and the restrictions on other games  
20 of chance conducted during a bingo occasion. These rules remain necessary and the reasons for  
21 initially adopting these rules continue to exist, because they help ensure that charitable bingo in  
22 Texas is conducted fairly and in accordance with Article III, Section 47 of the Texas Constitution  
23 and the BEA.

1 The Commission, however, intends to propose amendments to Rules 402.200, 402.201,  
2 402.202, 402.203, 402.210, and 402.212.

3 The proposed amendments to Rule 402.200 will correct a typo and specify that formal  
4 complaints to the Commission must be in writing. The amendments will also codify a prior bingo  
5 advisory opinion holding that organizations may not accept credit payments for bingo products,  
6 which was noted in the Staff Report.

7 The proposed amendments to Rule 402.201 will codify the long-standing Commission  
8 practice and process of issuing cease-and-desist letters and copying local law enforcement in  
9 substantiated cases of illegal bingo.

10 The proposed amendments to Rule 402.202 will delete a reference to the timely  
11 submission of a transfer of funds form which is no longer necessary due to the proposed new  
12 Rule 402.105.

13 The proposed amendments to Rule 402.203 will conform the rules regarding the sale of  
14 pull-tabs between organizations with the BEA.

15 The proposed amendments to Rule 402.210 are necessary to prohibit organizations from  
16 allowing people to offer to sell bingo products or award bingo prizes to people outside of an  
17 occasion via a telecommunications device.

18 The proposed amendments to Rule 402.212 will clarify that approval for a promotional  
19 bingo event will only be issued if the request complies with all the requirements of the rule. No  
20 other substantive amendments are recommended at this time.

21 Subchapter C (Bingo Games and Equipment) consists of the following rules:

22 §402.300 – Pull-Tab Bingo

23 §402.301 – Bingo Card/Paper

- 1    §402.303 – Pull-tab or Instant Bingo Dispensers
- 2    §402.321 – Card-Minding Systems--Definitions
- 3    §402.322 – Card-Minding Systems--Site System Standards
- 4    §402.323 – Card-Minding Systems--Device Standards
- 5    §402.324 – Card-Minding Systems--Approval of Card-Minding Systems
- 6    §402.325 – Card-Minding Systems--Licensed Authorized Organizations Requirements
- 7    §402.326 – Card-Minding Systems--Distributor Requirements
- 8    §402.327 – Card-Minding Systems--Security Standards
- 9    §402.328 – Card-Minding Systems--Inspections and Restrictions
- 10   §402.331 – Shutter Card Bingo Systems - Definitions
- 11   §402.332 – Shutter Card Bingo Systems - Site System Standards
- 12   §402.333 – Shutter Card Bingo Systems - Shutter Card Station and Customer Account Standards
- 13   §402.334 – Shutter Card Bingo Systems - Approval of Shutter Card Bingo Systems
- 14   §402.335 – Shutter Card Bingo Systems - Licensed Authorized Organization Requirements
- 15   §402.336 – Shutter Card Bingo Systems - Distributor Requirements
- 16   §402.337 – Shutter Card Bingo Systems - Security Standards
- 17   §402.338 – Shutter Card Bingo Systems - Inspections and Restrictions

18            Subchapter C consists of rules governing bingo equipment, including pull-tab tickets,  
19   bingo cards and paper, ticket dispensers, shutter card bingo systems, and card-minding systems.  
20   These rules remain necessary and the reasons for initially adopting these rules continue to exist  
21   because they help ensure that charitable bingo games are conducted, and bingo equipment is  
22   created, in compliance with the BEA.

1           The Commission, however, intends to propose repeals of Rules 402.301 and 402.303,  
2   amendments to Rules 402.300, 402.324, 402.325, 402.326, and 402.334, and new Rules 402.301,  
3   402.302, 402.303 402.304, 402.305, 402.306, 402.307, 402.308, 402.309, 402.310, and 402.311.

4           The changes associated with Rules 402.300–402.311 relate to breaking up Rules 402.300  
5   (Pull-Tab Bingo) and 402.301 (Bingo Card/Paper) into smaller, more manageable rules. To that  
6   end, Rules 402.301 and 402.303 must be repealed and replaced, along with proposed  
7   amendments to Rule 402.300 and proposed new rules at 402.302, 402.304, 402.305, 402.306,  
8   402.307, 402.308, 402.309, 402.310, and 402.311. There are no substantive changes to the text  
9   of these rules except that the proposed new Rules 402.306 and 402.310 will allow break-open  
10   bingo games to be pre-called, and will properly categorize braille and loteria cards as bingo  
11   equipment that require approval by the Commission.

12          The proposed amendments to Rule 402.324 will eliminate all references to the  
13   Commission’s testing lab and will require manufacturers to provide any forms and  
14   documentation necessary to ensure that their card-minding systems comply with required  
15   standards.

16          The proposed amendments to Rule 402.325 will provide that the voided receipts  
17   organizations are required to attach to the bingo occasion report must include all payments (cash  
18   or otherwise) for pre-sales.

19          The proposed amendments to Rule 402.326 will delete an obsolete reference to modems.

20          The proposed amendments to Rule 402.334 will require a manufacturer to provide any  
21   software necessary to determine if its shutter card bingo system meets rule requirements. No  
22   other substantive amendments are recommended at this time.

23          Subchapter D (Licensing Requirements) consists of the following rules:

- 1 §402.400 – General Licensing Provisions
- 2 §402.401 – Temporary License
- 3 §402.402 – Registry of Bingo Workers
- 4 §402.403 – Licenses for Conduct of Bingo Occasions and to Lease Bingo Premises
- 5 §402.404 – License Classes and Fees
- 6 §402.405 – Temporary Authorization
- 7 §402.406 – Bingo Chairperson
- 8 §402.407 – Unit Manager
- 9 §402.408 – Designation of Members
- 10 §402.409 – Amendment for Change of Premises or Occasions Due to Lease Termination or
- 11 Abandonment
- 12
- 13 §402.410 – Amendment of a License - General Provisions
- 14 §402.411 – License Renewal
- 15 §402.412 – Signature Requirements
- 16 §402.413 – Military Service Members, Military Veterans, and Military Spouses
- 17 §402.420 – Qualifications and Requirements for Conductor’s License
- 18 §402.422 – Amendment to a Regular License to Conduct Charitable Bingo
- 19 §402.424 – Amendment of a License by Electronic Mail, Telephone or Facsimile
- 20 §402.442 – Amendment to a Commercial Lessor License
- 21 §402.443 – Transfer of a Grandfathered Lessor’s Commercial Lessor License
- 22 §402.450 – Request for Waiver
- 23 §402.451 – Operating Capital
- 24 §402.452 – Net Proceeds
- 25 §402.453 – Request for Operating Capital Increase

1           The Commission currently licenses around thirteen hundred (1,300) charitable bingo  
2     conductors, commercial lessors, and manufacturers and distributors, and has approved around  
3     eight thousand seven hundred (8,700) individuals to be listed on the bingo worker registry in  
4     Texas. Subchapter D includes rules governing the application, renewal, and amendment process  
5     for Commission-issued licenses and listings on the bingo worker registry. These rules are  
6     necessary for the proper administration of the Commission's charitable bingo licensing and  
7     worker registry program. Therefore, the Commission has determined that the reasons for initially  
8     adopting these rules continue to exist.

9           Subchapter D also includes rules that implement BEA provisions that govern the amount  
10    of operating capital a bingo conductor may maintain, the net proceeds a bingo conductor must  
11    produce, and the process by which licensees may request a waiver of these requirements. These  
12    rules are necessary to help ensure that bingo proceeds are directed to statutorily-authorized  
13    purposes. Therefore, the Commission has determined that the reasons for initially adopting these  
14    rules continue to exist.

15          The Commission, however, intends to propose amendments to Rules 402.400, 402.401,  
16    402.402, 402.404, 402.411, and 402.443.

17          The proposed amendments to Rule 402.400 will provide that the Commission will not  
18    return a license application when the applicant has failed to respond to a request for more  
19    information within 21 days.

20          The proposed amendments to Rule 402.401 will clarify how many temporary licenses a  
21    regular organization may retain after surrendering its regular license.

22          The proposed amendments to Rule 402.402 will eliminate the requirement to list an  
23    applicant's race on an application for the worker registry.

1           The proposed amendments to Rule 402.404 will eliminate an unnecessary term.

2           The proposed amendments to Rule 402.411 will delete a reference to the timely  
3 submission of license renewal applications, which is no longer necessary due to the proposed  
4 new Rule 402.105.

5           The proposed amendments to Rule 402.443 will codify the Commission’s practice on the  
6 transfer of grandfathered lessor licenses, as noted in the Staff Report. No other substantive  
7 amendments are recommended at this time.

8           Subchapter E (Books and Records) consists of the following rules:

9   §402.500 – General Records Requirements

10   §402.501 – Charitable Use of Net Proceeds

11   §402.502 – Charitable Use of Net Proceeds Recordkeeping

12   §402.503 – Bingo Gift Certificates

13   §402.504 – Debit Card Transactions

14   §402.505 – Permissible Expense

15   §402.506 – Disbursement Records Requirements

16   §402.511 – Required Inventory Records

17   §402.514 – Electronic Fund Transfers

18           Subchapter E consists of rules governing the record-keeping and reporting requirements  
19 related to the conduct of charitable bingo and the standards for determining the propriety of  
20 certain expenses. These rules remain necessary and the reasons for initially adopting these rules  
21 continue to exist, because they help ensure that bingo proceeds are only used for statutorily-  
22 authorized purposes.



1           The Commission, however, intends to propose amendments to Rules 402.500 and  
2 402.502.

3           The proposed amendments to Rule 402.500 will codify the Commission's practice  
4 requiring cash basis accounting.

5           The proposed amendments to Rule 402.502 will eliminate unnecessary language related  
6 to the kinds of documentation that may be relied on to prove charitable distributions were  
7 properly made. No other substantive amendments are recommended at this time.

8           Subchapter F (Payment of Taxes, Prize Fees and Bonds) consists of the following:

9   §402.600 – Bingo Reports and Payments

10 §402.601 – Interest on Delinquent Tax

11 §402.602 – Waiver of Penalty, Settlement of Prize Fees, Penalty and/or Interest

12 §402.603 – Bond or Other Security

13 §402.604 – Delinquent Purchaser

14           Subchapter F consists of rules governing the payment of requisite fees, the submission of  
15 bonds or other security, and the delinquent payment of the costs for bingo equipment.

16           Rule 402.600 governs the payment of bingo-related fees and the filing of quarterly  
17 reports, which are required by statute and used by the Commission to track its licensees' bingo-  
18 related finances. This rule remains necessary and the reasons for initially adopting the rule  
19 continue to exist because the rule helps ensure that licensees are remitting fees in the proper  
20 amount and that bingo proceeds are only used for statutorily-authorized purposes. Furthermore,  
21 the Commission is required by Texas Occupations Code §2001.504 to adopt rules governing the  
22 payment of fees.

1 Rule 402.601 governs the payment of interest on delinquent fees, refunds and credits,  
2 while Rule 402.602 governs the Commission's settlement of penalties and fees due. These rules  
3 remain necessary and the reasons for initially adopting the rules continue to exist, because they  
4 implement Texas Tax Code §§ 111.060 (Interest on Delinquent Tax), 111.064 (Interest on  
5 Refund or Credit), 111.101 (Settlement) and 111.103 (Settlement of Penalty and Interest Only),  
6 which are made applicable to the Commission through Texas Occupations Code §§ 2001.508  
7 and 2001.512.

8 Rule 402.603 governs the submission of a bond or other security by a licensee, which is  
9 required under Texas Occupations Code §2001.514. This rule remains necessary and the reasons  
10 for initially adopting the rule continue to exist, because the rule helps secure the payment of  
11 statutorily-authorized fees by licensees.

12 Finally, Rule 402.604 imposes requirements when a purchaser of bingo equipment is  
13 delinquent in its payment of the amount due for the equipment. This rule implements Texas  
14 Occupations Code §2001.218, and it remains necessary to help ensure that transactions for bingo  
15 equipment comply with that statute.

16 Therefore, the Commission has determined that the reasons for initially adopting these  
17 rules continue to exist.

18 The Commission, however, intends to propose amendments to Rules 402.600, 402.601,  
19 and 402.602.

20 The proposed amendments to Rule 402.600 will delete references to the timely  
21 submission of bingo reports and payments, which are no longer necessary due to the proposed  
22 new Rule 402.105.

1           The proposed amendments to Rule 402.601 will provide that credits that were previously  
2 pre-printed on quarterly reports will be viewable on the Bingo Service Portal.

3           The proposed amendments to Rule 402.602 will eliminate waivers of penalties and  
4 interest based on late payment of prize fees because those waivers are not provided for in the  
5 BEA. No other substantive amendments are recommended at this time.

6           Subchapter G (Compliance and Enforcement) consists of the following rules:

7   §402.700 – Denials; Suspensions; Revocations; Hearings

8   §402.701 – Investigation of Applicants for Licenses

9   §402.702 – Disqualifying Convictions

10   §402.703 – Audit Policy

11   §402.705 – Inspection of Premises

12   §402.706 – Schedule of Sanctions

13   §402.707 – Expedited Administrative Penalty Guideline

14   §402.708 – Dispute Resolution

15   §402.709 – Corrective Action

16           Subchapter G includes rules governing the Commission’s disciplinary, inspection, and  
17 audit processes. These rules are necessary, and the reasons for initially adopting these rules  
18 continue to exist, because they help ensure that licensees and other persons abide by all  
19 applicable statutes and rules. Subchapter G also includes rules governing the conduct of criminal  
20 background checks on applicants and criminal convictions which may disqualify a license or  
21 bingo worker registry applicant. These rules are necessary, and the reasons for initially adopting  
22 these rules continue to exist, because they help implement Texas Occupations Code §2001.541,

1 which requires the Commission to adopt rules regarding the use of criminal history record  
2 information in the licensing process.

3 The Commission, however, intends to propose amendments to Rules 402.702, 402.703,  
4 402.706 and 402.707.

5 The proposed amendments to Rule 402.702 will eliminate a reference to a statute that no  
6 longer exists.

7 The proposed amendments to Rule 402.703 will require consideration of an  
8 organization's compliance history in audit determinations, as noted in the Staff Report.

9 The proposed amendments to Rule 402.706 will eliminate warnings for first time  
10 violations of serious offenses and repeat violations of lesser offenses, as noted in the Staff  
11 Report.

12 The proposed amendments to Rule 402.707 will change a pronoun, reiterate that formal  
13 complaints must be in writing, and eliminate warnings for repeat violations. No other substantive  
14 amendments are recommended at this time.

15 The Commission will propose these amendments, repeals, and new rules in a separate  
16 rulemaking action. The Commission will take the recommendations of the BAC under  
17 advisement and will continue to work with the BAC and industry stakeholders on any future  
18 rulemaking actions.

19 This review and readoption has been conducted in accordance with the requirements of  
20 Texas Government Code §2001.039. The Commission received no written comments during the  
21 public comment period, but received oral comments regarding Chapter 402 from the BAC and  
22 other industry stakeholders at BAC meetings on April 3, 2024, June 5, 2024, and August 6, 2024.  
23 On August 7, 2024, during a meeting of the Commission, BAC Chairman Trace Smith informed

1 the Commissioners that the BAC supports closing the rule review process and moving forward  
2 with the proposed rulemaking. The proposed review was published in the October 27, 2023 issue  
3 of the *Texas Register* (48 TexReg 6394).

4 This action concludes the Commission's review of 16 TAC Chapter 402.

DRAFT



1           The Texas Lottery Commission (Commission) has reviewed the Commission's rules at  
2   16 Texas Administrative Code (TAC) Chapter 403 (General Administration) in accordance with  
3   the requirements of Texas Government Code §2001.039 (Agency Review of Existing Rules), and  
4   hereby readopts the rules in Chapter 403. The Commission has determined that the reasons for  
5   adopting each of the rules in Chapter 403 continue to exist, as discussed below. As a result of  
6   this review, and as discussed below, the Commission has determined that none of the rules in  
7   Chapter 403 need to be amended at this time.

8           Rule 403.101 (Public Information) sets forth agency procedures under which public  
9   information may be inspected and copied, as authorized by Texas Government Code §552.230,  
10  (Rules of Procedure for Inspection and Copying of Public Information). This rule also explains  
11  the implementation of Texas Government Code §552.275 (Requests that Require Large Amounts  
12  of Employee or Personnel Time) establishing a reasonable limit of 36 hours per fiscal year as the  
13  maximum amount of time Commission personnel are required to spend producing public  
14  information for inspection or duplication by a requestor, or providing copies of public  
15  information to a requestor, without the Commission recovering costs attributable to that  
16  personnel time. This rule has been reviewed by and discussed with the Commission's Public  
17  Information Coordinator and the Commission has determined that all practices and procedures  
18  contained in the rule are current, the need for this rule still exists, and no amendments are  
19  needed.

20          Rule 403.102 (Items Mailed to the Commission) is necessary to establish a standard  
21  approach to determine when items are mailed to the Commission, consistent with the  
22  requirements of Texas Government Code §2001.004(1), relating to state agency rules of practice.  
23  This rule and Texas Government Code §2001.004(1) were reviewed alongside current

1 Commission procedures and the Commission has determined that the need for this rule still  
2 exists to provide a consistent measurement for the public to know when the Commission will  
3 consider an item to have been placed in the mail. This rule is current and does not require  
4 amendment.

5 Rule 403.110 (Petition for Adoption of Rule Changes) is necessary to comply with the  
6 requirement set forth in Texas Government Code §2001.021(b) that a state agency adopt rules  
7 prescribing the form for a petition for adoption of rules. This rule is statutorily mandated by  
8 Texas Government Code §2001.021(b) and the procedures contained in this rule are consistent  
9 with the statute and are still needed. This rule is also consistent with current agency practice and  
10 does not need amendment at this time.

11 Rule 403.115 (Negotiated Rulemaking and Alternative Dispute Resolution) sets forth  
12 Commission procedures and policy to comply with the requirements of Texas Government Code  
13 §467.109, relating to Negotiated Rulemaking and Alternative Dispute Resolution Policy. This  
14 rule is statutorily mandated and upon review the Commission has determined that the reasons for  
15 this rule continue to exist. This rule does not require amendment at this time.

16 Rules 403.201 (Definitions), 403.202 (Prerequisites to Suit), 403.203 (Sovereign  
17 Immunity), 403.204 (Notice of Claim of Breach of Contract), 403.205 (Agency Counterclaim),  
18 403.206 (Request for Voluntary Disclosure of Additional Information), 403.207 (Duty to  
19 Negotiate), 403.208 (Timetable), 403.209 (Conduct of Negotiation), 403.210 (Settlement  
20 Approval Procedures), 403.211 (Settlement Agreement), 403.212 (Costs of Negotiation),  
21 403.213 (Request for Contested Case Hearing), 403.214 (Mediation Timetable), 403.215  
22 (Conduct of Mediation), 403.216 (Qualifications and Immunity of the Mediator), 403.217  
23 (Confidentiality of Mediation and Final Settlement Agreement), 403.218 (Costs of Mediation),



1 403.219 (Settlement Approval Procedures), 403.220 (Initial Settlement Agreement), 403.221  
2 (Final Settlement Agreement), 403.222 (Referral to the State Office of Administrative Hearings),  
3 and 403.223 (Use of Assisted Negotiation Processes) were adopted to govern the submission,  
4 negotiation and mediation of certain claims against the Commission, as mandated in Texas  
5 Government Code, Chapter 2260. These rules were reviewed and are current with Commission  
6 practice and procedure and the reason for their adoption continues to exist. There are no  
7 amendments required for these rules at this time.

8 Rule 403.301 (Historically Underutilized Businesses) was adopted to comply with the  
9 requirement that a state agency adopt the Comptroller of Public Accounts' rules on Historically  
10 Underutilized Businesses, set forth in Texas Government Code §2161.003, relating to Agency  
11 Rules. This rule was reviewed and discussed with pertinent agency personnel, and the reason for  
12 its adoption continues to exist. No amendments to this rule are required at this time.

13 Rule 403.401 (Use of Commission Motor Vehicles) was adopted to comply with the  
14 requirement that a state agency adopt rules relating to the assignment and use of agency vehicles,  
15 set forth in Texas Government Code §2171.1045, relating to Restrictions on Assignment of  
16 Vehicles. This rule was reviewed by and discussed with the agency's facilities manager and the  
17 reason for its adoption continues to exist. No amendments to this rule are required at this time.

18 Rule 403.501 (Custody and Use of Criminal History Record Information) is necessary to  
19 implement provisions governing the Commission's access to criminal history record information  
20 obtained from the Texas Department of Public Safety, set forth in Texas Government Code  
21 §411.108, relating to Access to Criminal History Record Information: Texas Lottery  
22 Commission. This rule was reviewed and discussed with the agency's Enforcement Director and

1 the reason for its adoption continues to exist. No amendments to this rule are required at this  
2 time.

3 Rule 403.600 (Complaint Review Process) sets forth agency procedures to comply with  
4 Texas Government Code §467.111, relating to Complaints, which requires the Commission to  
5 maintain a system to promptly and efficiently act on each complaint filed with the Commission;  
6 and, specifically, the requirement in §467.111(d) that the agency adopt rules governing the entire  
7 complaint process from submission to disposition. This rule was reviewed and discussed with the  
8 agency's Retailer Services Manager and the reason for its adoption continues to exist. No  
9 amendments to this rule are required at this time.

10 Rule 403.700 (Employee Tuition Reimbursement) sets forth necessary internal  
11 procedures under which the Commission provides financial assistance to employees who wish to  
12 improve or supplement their knowledge and skills by attending classes at accredited colleges,  
13 junior colleges, or universities while pursuing a degree plan. This rule was reviewed and  
14 discussed with the agency's Human Resources Director and the reason for its adoption continues  
15 to exist. No amendments to this rule are required at this time.

16 Rule 403.701 (Family Leave Pool) is necessary to comply with the requirement that a  
17 state agency adopt rules and implement procedures relating to the operation of the Commission's  
18 family leave pool, set forth in Texas Government Code, Chapter 661, Subchapter A-1, relating to  
19 State Employee Family Leave Pool. This rule was reviewed and discussed with the agency's  
20 Human Resources Director and the reason for its adoption continues to exist. No amendments to  
21 this rule are required at this time.

22 Rule 403.800 (Savings Incentive Program) implements Chapter 2108 of the Texas  
23 Government Code, which requires state agencies to provide notice to the Texas Comptroller of

1 savings realized from appropriated undedicated general revenue and to retain a portion of the  
2 amounts verified by the Comptroller. While currently the Commission has no undedicated  
3 general revenue appropriated to it that would allow for a savings incentive program, the statute  
4 requires that the Commission maintain rules in case such funds are appropriated in the future.  
5 The Charitable Bingo Operations Division is currently funded by general revenue. The  
6 Charitable Bingo program is supported by bingo prize fees, license fees for manufacturers,  
7 distributors, and lessors, and administrative penalties, and the Commission does not foresee  
8 retaining any general revenue savings. This rule was reviewed and discussed with the agency's  
9 Controller and the reason for its adoption continues to exist. No amendments to this rule are  
10 required at this time.

11 This review and readoption has been conducted in accordance with the requirements of  
12 Texas Government Code §2001.039. The Commission received no comments on the proposed  
13 review, which was published in the October 27, 2023, issue of the *Texas Register* (48 TexReg  
14 6395).

15 This action concludes the Commission's review of 16 TAC Chapter 403.



# REVIEW OF AGENCY RULES

This section contains notices of state agency rule review as directed by the Texas Government Code, §2001.039. Included here are proposed rule review notices, which

invite public comment to specified rules under review; and adopted rule review notices, which summarize public comment received as part of the review. The complete text of an agency's rule being reviewed is available in the *Texas Administrative Code* on the Texas Secretary of State's website.

For questions about the content and subject matter of rules, please contact the state agency that is reviewing the rules. Questions about the website and printed copies of these notices may be directed to the *Texas Register* office.

## Proposed Rule Reviews

### Texas Lottery Commission

#### Title 16, Part 9

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

#### Subchapter A - Procurement

§401.101 - Lottery Procurement Procedures

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

§401.103 - Protests of Contract Award

§401.104 - Contract Monitoring Roles and Responsibilities

§401.105 - Major Procurement Approval Authority, Responsibilities and Reporting

#### Subchapter B - Licensing of Sales Agents

§401.152 - Application for License

§401.153 - Qualifications for License

§401.155 - Expiration of License

§401.156 - Renewal of License

§401.157 - Provisional License

§401.158 - Suspension or Revocation of License

§401.159 - Summary Suspension of License

§401.160 - Standard Penalty Chart

#### Subchapter C - Practice and Procedure

§401.201 - Intent and Scope of Rules

§401.202 - Construction of Rules

§401.203 - Contested Cases

§401.205 - Initiation of a Hearing

§401.207 - Written Answer; Default Proceedings

§401.211 - Law Governing Contested Cases

§401.216 - Subpoenas, Depositions, and Orders to Allow Entry

§401.220 - Motion for Rehearing

§401.227 - Definitions

#### Subchapter D - Lottery Game Rules

§401.301 - General Definitions

§401.302 - Scratch Ticket Game Rules

§401.303 - Grand Prize Drawing Rule

§401.304 - Draw Game Rules (General)

§401.305 - "Lotto Texas" Draw Game Rule

§401.306 - Video Lottery Games

§401.307 - "Pick 3" Draw Game Rule

§401.308 - "Cash Five" Draw Game Rule

§401.309 - Assignability of Prizes

§401.310 - Payment of Prize Payments Upon Death of Prize Winner

§401.312 - "Texas Two Step" Draw Game Rule

§401.313 - Promotional Drawings

§401.314 - Retailer Bonus Programs

§401.315 - "Mega Millions" Draw Game Rule

§401.316 - "Daily 4" Draw Game Rule

§401.317 - "Powerball" Draw Game Rule

§401.318 - Withholding of Delinquent Child-Support Payments from Lump-sum and Periodic Installment Payments of Lottery Winnings in Excess of Six Hundred Dollars

§401.319 - Withholding of Child-Support Payments from Periodic Installment Payments of Lottery Winnings

§401.320 - "All or Nothing" Draw Game Rule

§401.321 - Scratch Tickets Containing Non-English Words

§401.324 - Prize Winner Election to Remain Anonymous

#### Subchapter E - Retailer Rules

§401.351 - Proceeds from Ticket Sales

§401.352 - Settlement Procedures

§401.353 - Retailer Settlements, Financial Obligations, and Commissions

§401.355 - Restricted Sales

§401.357 - Texas Lottery as Retailer

§401.360 - Payment of Prizes

§401.361 - Required Purchases of Lottery Tickets

§401.362 - Retailer's Financial Responsibility for Lottery Tickets Received and Subsequently Damaged or Rendered Unsaleable, for Winning Lottery Tickets Paid and for Lottery-Related Property

§401.363 - Retailer Record

§401.364 - Training

§401.366 - Compliance with All Applicable Laws

§401.368 - Lottery Ticket Vending Machines

§401.370 - Retailer's Financial Responsibility for Lottery Tickets Received and Subsequently Stolen or Lost

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

§401.372 - Display of License

Subchapter F - ADA Requirements

§401.401 - Definitions

§401.402 - General Requirements

§401.403 - Readily Achievable Barrier Removal

§401.404 - Priority of ADA Compliance by Lottery Licensees

§401.405 - Alternatives to Barrier Removal

§401.406 - Future Alterations to a Lottery Licensed Facility

§401.407 - Complaints Relating to Non-accessibility

§401.408 - Requests for Hearings

Subchapter G - Lottery Security

§401.501 - Lottery Security

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

Written comments pertaining to this rule review may be submitted by mail to Deanne Rienstra, Special Counsel, at Texas Lottery Commission, P.O. Box 16630, Austin, Texas 78761-6630; by facsimile at (512) 344-5189; or by email at [legal.input@lottery.state.tx.us](mailto:legal.input@lottery.state.tx.us).

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

TRD-202303810

Bob Biard

General Counsel

Texas Lottery Commission

Filed: October 13, 2023



The Texas Lottery Commission (Commission) files this notice of intent to review, and to consider for readoption, amendment, or repeal, the Commission's rules at Title 16 Texas Administrative Code Chap-

ter 402 relating to Charitable Bingo Operations Division. The names and numbers of the rules contained in Chapter 402 are set forth below. This review is being conducted in accordance with the requirements of Texas Government Code §2001.039 (Agency Review of Existing Rules):

Subchapter A - Administration

§402.100 - Definitions

§402.101 - Advisory Opinions

§402.102 - Bingo Advisory Committee

§402.103 - Training Program

§402.104 - Delinquent Obligations

Subchapter B - Conduct of Bingo

§402.200 - General Restrictions on the Conduct of Bingo

§402.201 - Prohibited Bingo Occasion

§402.202 - Transfer of Funds

§402.203 - Unit Accounting

§402.204 - Prohibited Price Fixing

§402.205 - Unit Agreements

§402.210 - House Rules

§402.211 - Other Games of Chance

§402.212 - Promotional Bingo

Subchapter C - Bingo Games and Equipment

§402.300 - Pull-Tab Bingo

§402.301 - Bingo Card/Paper

§402.303 - Pull-tab or Instant Bingo Dispensers

§402.321 - Card-Minding Systems--Definitions

§402.322 - Card-Minding Systems--Site System Standards

§402.323 - Card-Minding Systems--Device Standards

§402.324 - Card-Minding Systems--Approval of Card-Minding Systems

§402.325 - Card-Minding Systems--Licensed Authorized Organizations Requirements

§402.326 - Card-Minding Systems--Distributor Requirements

§402.327 - Card-Minding Systems--Security Standards

§402.328 - Card-Minding Systems--Inspections and Restrictions

§402.331 - Shutter Card Bingo Systems - Definitions

§402.332 - Shutter Card Bingo Systems - Site System Standards

§402.333 - Shutter Card Bingo Systems - Shutter Card Station and Customer Account Standards

§402.334 - Shutter Card Bingo Systems - Approval of Shutter Card Bingo Systems

§402.335 - Shutter Card Bingo Systems - Licensed Authorized Organization Requirements

§402.336 - Shutter Card Bingo Systems - Distributor Requirements

§402.337 - Shutter Card Bingo Systems - Security Standards

§402.338 - Shutter Card Bingo Systems - Inspections and Restrictions

#### Subchapter D - Licensing Requirements

##### §402.400 - General Licensing Provisions

##### §402.401 - Temporary License

##### §402.402 - Registry of Bingo Workers

##### §402.403 - Licenses for Conduct of Bingo Occasions and to Lease Bingo Premises

##### §402.404 - License Classes and Fees

##### §402.405 - Temporary Authorization

##### §402.406 - Bingo Chairperson

##### §402.407 - Unit Manager

##### §402.408 - Designation of Members

##### §402.409 - Amendment for Change of Premises or Occasions Due to Lease Termination or Abandonment

##### §402.410 - Amendment of a License - General Provisions

##### §402.411 - License Renewal

##### §402.412 - Signature Requirements

##### §402.413 - Military Service Members, Military Veterans, and Military Spouses

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

##### §402.422 - Amendment to a Regular License to Conduct Charitable Bingo

##### §402.424 - Amendment of a License by Electronic Mail, Telephone or Facsimile

##### §402.442 - Amendment to a Commercial Lessor License

##### §402.443 - Transfer of a Grandfathered Lessor's Commercial Lessor License

##### §402.450 - Request for Waiver

##### §402.451 - Operating Capital

##### §402.452 - Net Proceeds

##### §402.453 - Request for Operating Capital Increase

#### Subchapter E - Books and Records

##### §402.500 - General Records Requirements

##### §402.501 - Charitable Use of Net Proceeds

##### §402.502 - Charitable Use of Net Proceeds Recordkeeping

##### §402.503 - Bingo Gift Certificates

##### §402.504 - Debit Card Transactions

##### §402.505 - Permissible Expense

##### §402.506 - Disbursement Records Requirements

##### §402.511 - Required Inventory Records

##### §402.514 - Electronic Fund Transfers

#### Subchapter F - Payment of Taxes, Prize Fees and Bonds

##### §402.600 - Bingo Reports and Payments

##### §402.601 - Interest on Delinquent Tax

##### §402.602 - Waiver of Penalty, Settlement of Prize Fees, Penalty and/or Interest

##### §402.603 - Bond or Other Security

##### §402.604 - Delinquent Purchaser

#### Subchapter G - Compliance and Enforcement

##### §402.700 - Denials; Suspensions; Revocations; Hearings

##### §402.701 - Investigation of Applicants for Licenses

##### §402.702 - Disqualifying Convictions

##### §402.703 - Audit Policy

##### §402.705 - Inspection of Premises

##### §402.706 - Schedule of Sanctions

##### §402.707 - Expedited Administrative Penalty Guideline

##### §402.708 - Dispute Resolution

##### §402.709 - Corrective Action

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

Written comments pertaining to this rule review may be submitted by mail to Deanne Rienstra, Special Counsel, at Texas Lottery Commission, P.O. Box 16630, Austin, Texas 78761-6630; by facsimile at (512) 344-5189; or by email at [legal.input@lottery.state.tx.us](mailto:legal.input@lottery.state.tx.us).

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

TRD-202303811

Bob Biard

General Counsel

Texas Lottery Commission

Filed: October 13, 2023



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

##### §403.101 - Public Information

##### §403.102 - Items Mailed to the Commission

##### §403.110 - Petition for Adoption of Rule Changes

##### §403.115 - Negotiated Rulemaking and Alternative Dispute Resolution

##### §403.201 - Definitions

##### §403.202 - Prerequisites to Suit

##### §403.203 - Sovereign Immunity

##### §403.204 - Notice of Claim of Breach of Contract

##### §403.205 - Agency Counterclaim



§403.206 - Request for Voluntary Disclosure of Additional Information  
 §403.207 - Duty to Negotiate  
 §403.208 - Timetable  
 §403.209 - Conduct of Negotiation  
 §403.210 - Settlement Approval Procedures  
 §403.211 - Settlement Agreement  
 §403.212 - Costs of Negotiation  
 §403.213 - Request for Contested Case Hearing  
 §403.214 - Mediation Timetable  
 §403.215 - Conduct of Mediation  
 §403.216 - Qualifications and Immunity of the Mediator  
 §403.217 - Confidentiality of Mediation and Final Settlement Agreement  
 §403.218 - Costs of Mediation  
 §403.219 - Settlement Approval Procedures  
 §403.220 - Initial Settlement Agreement  
 §403.221 - Final Settlement Agreement  
 §403.222 - Referral to the State Office of Administrative Hearings  
 §403.223 - Use of Assisted Negotiation Processes  
 §403.301 - Historically Underutilized Businesses  
 §403.401 - Use of Commission Motor Vehicles  
 §403.501 - Custody and Use of Criminal History Record Information  
 §403.600 - Complaint Review Process  
 §403.700 - Employee Tuition Reimbursement  
 §403.701 - Family Leave Pool  
 §403.800 - Savings Incentive Program

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

Written comments pertaining to this rule review may be submitted by mail to Deanne Rienstra, Special Counsel, at Texas Lottery Commission, P.O. Box 16630, Austin, Texas 78761-6630; by facsimile at (512) 344-5189; or by email at [legal.input@lottery.state.tx.us](mailto:legal.input@lottery.state.tx.us).

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

TRD-202303812  
 Bob Biard  
 General Counsel  
 Texas Lottery Commission  
 Filed: October 13, 2023



## Department of State Health Services

### Title 25, Part 1

The Texas Health and Human Services Commission (HHSC), on behalf of the Texas Department of State Health Services (DSHS), proposes to review and consider for readoption, revision, or repeal the chapter listed below, in its entirety, contained in Title 25, Part 1, of the Texas Administrative Code:

#### Chapter 104, Children Participating in Rodeos

This review is conducted in accordance with the requirements of Texas Government Code §2001.039, which requires state agencies, every four years, to assess whether the initial reasons for adopting a rule continue to exist. After reviewing its rules, the agency will readopt, readopt with amendments, or repeal its rules.

Comments on the review of Chapter 104, Children Participating in Rodeos, may be submitted to HHSC Rules Coordination Office, Mail Code 4102, P.O. Box 13247, Austin, Texas 78711-3247, or by email to [HHSCRulesCoordinationOffice@hhs.texas.gov](mailto:HHSCRulesCoordinationOffice@hhs.texas.gov). When emailing comments, please indicate "Comments on Proposed Rule Review Chapter 104" in the subject line. The deadline for comments is on or before 5:00 p.m. central time on the 31st day after the date this notice is published in the *Texas Register*.

The text of the rule sections being reviewed will not be published, but may be found in Title 25, Part 1, of the Texas Administrative Code or on the Secretary of State's website at State Rules and Open Meetings ([texas.gov](http://texas.gov)).

TRD-202303852  
 Jessica Miller  
 Director, Rules Coordination Office  
 Department of State Health Services  
 Filed: October 17, 2023



## Health and Human Services Commission

### Title 26, Part 1

The Texas Health and Human Services Commission (HHSC) proposes to review and consider for readoption, revision, or repeal the chapter listed below, in its entirety, contained in Title 26, Part 1, of the Texas Administrative Code:

#### Chapter 87, Ombudsman Services

##### Subchapter A Office of The Ombudsman

##### Subchapter B Ombudsman Managed Care Assistance

##### Subchapter C Ombudsman for Children and Youth in Foster Care

##### Subchapter D Ombudsman for Behavioral Health

##### Subchapter E Intellectual or Developmental Disability Ombudsman

This review is conducted in accordance with the requirements of Texas Government Code §2001.039, which requires state agencies, every four years, to assess whether the initial reasons for adopting a rule continue to exist. After reviewing its rules, the agency will readopt, readopt with amendments, or repeal its rules.

Comments on the review of Chapter 87, Ombudsman Services, may be submitted to HHSC Rules Coordination Office, Mail Code 4102, P.O. Box 13247, Austin, Texas 78711-3247, or by email to [HHSCRulesCoordinationOffice@hhs.texas.gov](mailto:HHSCRulesCoordinationOffice@hhs.texas.gov). When emailing comments, please indicate "Comments on Proposed Rule Review Chapter 87" in the subject line. The deadline for comments is on or before 5:00 p.m. central time