





# INTEROFFICE MEMO

Ryan Mindell, Executive Director

LaDonna Castañuela, Charitable Bingo Operations Director

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

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

*TV*

**Date:** February 6, 2025

**Re:** Consideration of and possible discussion and/or action, including adoption, on repeal of existing 16 TAC §§ 402.301 (Bingo Card/Paper) and 402.303 (Pull-tab or Instant Bingo Dispensers); new 16 TAC §§ 402.105 (Postmarks, Timely Filing of Forms, Reports, Applications and Payment of Taxes and Fees), 402.301 (Approval of Pull-Tab Bingo Tickets), 402.302 (Pull-Tab Bingo Manufacturing Requirements), 402.303 (Pull-Tab Bingo Sales and Redemption), 402.304 (Pull-Tab Bingo Record Keeping), 402.305 (Pull-Tab Bingo Styles of Play), 402.306 (Bingo Card/Paper Definitions), 402.307 (Bingo Card/Paper Approval), 402.308 (Bingo Card/Paper Manufacturing Requirements), 402.309 (Bingo Card/Paper Record Keeping), 402.310 (Bingo Card/Paper Styles of Play), and 402.311 (Pull-Tab or Instant Bingo Dispensers); and amendments to 16 TAC §§ 402.100 (Definitions), 402.101 (Advisory Opinions), 402.102 (Bingo Advisory Committee), 402.103 (Training Program), 402.200 (General Restrictions on the Conduct of Bingo), 402.201 (Prohibited Bingo Occasion), 402.202 (Transfer of Funds), 402.203 (Unit Accounting), 402.210 (House Rules), 402.212 (Promotional Bingo), 402.300 (Pull-Tab Bingo), 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), 402.334 (Shutter Card Bingo Systems - Approval of Shutter Card Bingo Systems), 402.400 (General Licensing Provisions), 402.401 (Temporary License), 402.402 (Registry of Bingo Workers), 402.404 (License Classes and Fees), 402.411 (License Renewal), 402.443 (Transfer of a Grandfathered Lessor's Commercial Lessor License), 402.500 (General Records Requirements), 402.502 (Charitable Use of Net Proceeds Recordkeeping), 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), 402.702 (Disqualifying Convictions), 402.703 (Audit Policy), 402.706 (Schedule of Sanctions), and 402.707 (Expedited Administrative Penalty Guideline).

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Attached is a draft submission to the *Texas Register* to adopt the (i) repeal of, (ii) addition of new, and (iii) amendments to the above-referenced rules with changes to the proposed text as published in the November 15, 2024 issue of the *Texas Register* (49 TexReg 9156) (also attached).

As discussed in greater detail in the attached preamble to the rule adoption, the repeals, new rules, and amendments are the result of the Commission's recent rule review conducted in accordance with Texas Government Code §2001.039, as well as the agency's recent review by the Texas Sunset Advisory Commission. Among the more significant changes, this proposal addresses issues identified as rulemaking

gaps in the Sunset Advisory Commission's September 2024 Staff Report with Commission Decisions (Sunset Report). Specifically, the Sunset Report noted that there was "[n]o clarification of what classifies as a bingo hall's 'premises'..." (addressed in Rule 402.100), "[n]o clarification that bingo products may not be purchased using a credit card ..." (addressed in Rule 402.200), "[n]o clarification of how certain grandfathered bingo licenses may be transferred" (addressed in Rule 402.443), and "[n]o definition of what constitutes a repeat violation ..." (addressed in Rule 402.706). The Sunset 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).

This proposal would also amend aspects of the Bingo Advisory Committee (BAC) to ensure that it complies with the Bingo Enabling Act (BEA); breaks two comprehensive rules on pull-tabs and bingo paper into multiple smaller rules for ease of reference; creates a single standard for determining when a form, report, application, or payment has been mailed to the Commission; clarifies and updates agency processes; eliminates references to terms, laws, and processes that are no longer in place; and conforms the rules to the BEA.

On December 4, 2024, the Commission held a public hearing to receive public comments on the proposed rules. No one from the public appeared at the hearing and no comments were received at the hearing. On December 3, 2024, the Commission received written comments from Stephen Fenoglio on behalf of Texas Charity Advocates and the Bingo Interest Group in the form of a red-lined version of the rule proposal document. At the December 4, 2024 meeting of the BAC, Mr. Fenoglio elaborated on the written comments orally. The preamble to the attached submission provides a detailed summary of the written comments and Commission responses.

The amendments recommended for adoption include several changes to the proposed version made in response to public comment. Rule 402.100(9), defining "premises," has been modified to include the grandfathering provision from Tex. Occ. Code §2001.403(b), which allows for more than one premises under a common roof or over a common foundation for licensees in existence on or before May 23, 1997. Also, new Rule 402.105(c)(1), regarding the timely filing of forms, reports, applications and payment of taxes and fees, has been modified to allow for contract carriers in addition to common carriers.

The Commission staff also recommends amending Rule 402.101(a)(3) to state that the Commission's authority to approve advisory opinions granted by Tex. Occ. Code §2001.059 "may be" (rather than "is") delegated to the Charitable Bingo Operations director or his or her designee. This amendment was not included in the published proposal, but we recommend adding it to reflect the Commission's recent directive to bring all bingo advisory opinions to the board for approval. That direction was given in response to the Sunset Report, which adopted a recommendation to "[m]odify [the] statute to remove the commission's authority to delegate approval authority for bingo advisory opinions." The Commission intends to approve all opinions whenever possible, but the rule still allows for a delegation to the bingo director in the event the Commission is unable to hold a public meeting within the 60-day statutory deadline to issue an opinion. If the Legislature enacts the recommended statutory change, this rule will be further amended, as necessary, to reflect the new law.

Recommendation: Staff recommends that the Commission adopt the proposed rule changes.





The Texas Lottery Commission (Commission) adopts the repeal of existing 16 TAC §§ 402.301 (Bingo Card/Paper) and 402.303 (Pull-tab or Instant Bingo Dispensers); the addition of new 16 TAC §§ 402.105 (Postmarks, Timely Filing of Forms, Reports, Applications and Payment of Taxes and Fees), 402.301 (Approval of Pull-Tab Bingo Tickets), 402.302 (Pull-Tab Bingo Manufacturing Requirements), 402.303 (Pull-Tab Bingo Sales and Redemption), 402.304 (Pull-Tab Bingo Record Keeping), 402.305 (Pull-Tab Bingo Styles of Play), 402.306 (Bingo Card/Paper Definitions), 402.307 (Bingo Card/Paper Approval), 402.308 (Bingo Card/Paper Manufacturing Requirements), 402.309 (Bingo Card/Paper Record Keeping), 402.310 (Bingo Card/Paper Styles of Play), and 402.311 (Pull-Tab or Instant Bingo Dispensers); and the amendments to 16 TAC §§ 402.100 (Definitions), 402.101 (Advisory Opinions), 402.102 (Bingo Advisory Committee), 402.103 (Training Program), 402.200 (General Restrictions on the Conduct of Bingo), 402.201 (Prohibited Bingo Occasion), 402.202 (Transfer of Funds), 402.203 (Unit Accounting), 402.210 (House Rules), 402.212 (Promotional Bingo), 402.300 (Pull-Tab Bingo), 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), 402.334 (Shutter Card Bingo Systems - Approval of Shutter Card Bingo Systems), 402.400 (General Licensing Provisions), 402.401 (Temporary License), 402.402 (Registry of Bingo Workers), 402.404 (License Classes and Fees), 402.411 (License Renewal), 402.443 (Transfer of a Grandfathered Lessor's Commercial Lessor License), 402.500 (General Records Requirements), 402.502 (Charitable Use of Net Proceeds Recordkeeping), 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), 402.702 (Disqualifying Convictions), 402.703 (Audit Policy), 402.706 (Schedule of Sanctions), and 402.707 (Expedited Administrative Penalty Guideline) with

1 changes to the proposed text as published in the November 15, 2024 issue of the *Texas Register*  
2 (49 TexReg 9156).

3 The amendments recommended for adoption include several changes to the proposed  
4 version made in response to public comment. These changes are a logical outgrowth of the  
5 published proposal that do not affect any new persons who were not affected by and on notice of  
6 the published proposal, and thus do not require republication.

7 In response to public comments, Rule 402.100(9), defining “premises,” has been modified  
8 to include the grandfathering provision from Tex. Occ. Code §2001.403(b), which allows for more  
9 than one premises under a common roof or over a common foundation for licensees in existence  
10 on or before May 23, 1997. Also, new Rule 402.105(c)(1), regarding the timely filing of forms,  
11 reports, applications and payment of taxes and fees, has been modified to allow for contract carriers  
12 in addition to common carriers.

13 The Commission has also amended Rule 402.101(a)(3) to state that the Commission’s  
14 authority to approve advisory opinions granted by Tex. Occ. Code §2001.059 “may be” (rather  
15 than “is”) delegated to the Charitable Bingo Operations director or his or her designee. This  
16 amendment was not included in the published proposal but is being added by the Commission, not  
17 in response to public comments, but to reflect the Commission’s recent directive to bring all bingo  
18 advisory opinions to the board for approval. That direction was given in response to the Texas  
19 Sunset Advisory Commission Staff Report with Commission Decisions (Sunset Report), which  
20 adopted a recommendation to “[m]odify [the] statute to remove the commission’s authority to  
21 delegate approval authority for bingo advisory opinions.” The Commission intends to approve all  
22 opinions, but the rule still allows for a delegation to the bingo director in the event the Commission  
23 is unable to hold a public meeting within the 60-day statutory deadline to issue an opinion. If the

1 Legislature enacts the recommended statutory change, this rule will be further amended, as  
2 necessary, to reflect the new law. This amendment does not materially alter the issues raised in the  
3 proposal or affect any persons who were not already on notice of the proposal and, thus, does not  
4 require republication. This amendment relates entirely to an internal process of the Commission  
5 and does not impact the rights or privileges of the public.

6 The repeals, new rules, and amendments are the result of the Commission's recent rule  
7 review conducted in accordance with Texas Government Code §2001.039, as well as the agency's  
8 recent review by the Texas Sunset Advisory Commission. Among the more significant changes,  
9 this proposal addresses issues identified as rulemaking gaps in the Sunset Report. Specifically, the  
10 Sunset Report noted that there was "[n]o clarification of what classifies as a bingo hall's  
11 'premises'..." (addressed in Rule 402.100), "[n]o clarification that bingo products may not be  
12 purchased using a credit card ..." (addressed in Rule 402.200), "[n]o clarification of how certain  
13 grandfathered bingo licenses may be transferred" (addressed in Rule 402.443), and "[n]o definition  
14 of what constitutes a repeat violation ..." (addressed in Rule 402.706). The Sunset Report also  
15 recommended considering a licensee's compliance history in audit determinations (addressed in  
16 Rule 402.703) and eliminating warnings for serious offenses and repeat violations of less serious  
17 offenses (addressed in Rules 402.706 and 402.707).

18 This proposal also amends aspects of the Bingo Advisory Committee (BAC) to ensure that  
19 it complies with the Bingo Enabling Act (BEA); breaks two comprehensive rules on pull-tabs and  
20 bingo paper into multiple smaller rules for ease of reference; creates a single standard for  
21 determining when a form, report, application, or payment has been mailed to the Commission;  
22 clarifies and updates agency processes; eliminates references to terms, laws, and processes that are  
23 no longer in place; and conforms the rules to the BEA.

1           The new Rule 402.105 establishes a single standard for determining the timeliness of  
2   filings by licensees. A form, report, application, or payment will be deemed filed or paid based on  
3   the postmark or receipt mark date, or, if filed electronically, the day that it was filed. Currently,  
4   there are different standards throughout the rules depending on the type of document or payment  
5   filed. The different standards will be deleted in this rulemaking and replaced by this single rule.  
6   This new rule was modeled on a similar rule adopted by the Comptroller of Public Accounts used  
7   to determine the timeliness of tax payments and related forms.

8           The new Rules 402.301, 402.302, 402.303, 402.304 and 402.305 are necessary to break  
9   the current Rule 402.300, regarding pull-tab bingo tickets, into smaller rules for ease of reference.  
10   There are no changes to the rule language from the current version.

11           The new Rules 402.306, 402.307, 402.308, 402.309, and 402.310 are necessary to break  
12   the current Rule 402.301, regarding bingo card/paper, into smaller rules for ease of reference. The  
13   Rules 402.306 and 402.310 also contain amendments allowing break-open bingo games to be pre-  
14   called, and will properly categorize braille and loteria cards as bingo equipment that require  
15   approval by the Commission. There are no other changes to the rule language from the current  
16   version.

17           The new Rule 402.311, regarding pull-tab or instant bingo dispensers, is currently at Rule  
18   402.303 and needs to be moved to break Rule 402.300 into multiple parts. There are no changes  
19   to the rule language from the current version.

20           The amendments to Rule 402.100 include a definition of “premises” that conforms with  
21   the BEA. This change addresses a gap that was identified by the Sunset Report.

22           The amendments to Rule 402.101 change a reference to the bingo operations director from  
23   “his” to “his or her,” provide that the issuance of an opinion “may be” delegated to the director,

1 and eliminate the requirement that the general counsel approve a bingo advisory opinion before it  
2 is issued.

3 The amendments to Rule 402.102 eliminate the appointment of a substitute member to the  
4 BAC if a member from one of the required interest groups cannot be appointed; clarify that a  
5 member serves at the pleasure of the Commission or until they resign or are unable to serve;  
6 provide for virtual meetings; and clarify the BAC's annual reporting deadline and reappointment  
7 process.

8 The amendments to Rule 402.103 clarify that conductors may only choose an on-site bingo  
9 training program if one is available. The amendments also codify the agency's practice that non-  
10 regular conductors are not subject to training requirements.

11 The amendments to Rule 402.200 correct a typo and specify that formal complaints to the  
12 Commission must be in writing. The amendments also codify a prior bingo advisory opinion that  
13 organizations may not accept credit payments for bingo products. This change addresses a gap that  
14 was identified by the Sunset Report.

15 The amendments to Rule 402.201 codify the long-standing Commission practice and  
16 process of issuing cease-and-desist letters and copying local law enforcement in substantiated  
17 cases of illegal bingo.

18 The amendments to Rule 402.202 delete a reference to the timely submission of a transfer  
19 of funds form. This rule is no longer necessary due to the new rule on timeliness of submissions  
20 at Rule 402.105.

21 The amendments to Rule 402.203 delete a reference that allows the sale of pull-tab bingo  
22 tickets between organizations with the prior written consent of the Commission. The authority for  
23 an organization to sell certain bingo products to another organization with the prior approval of

1 the Commission comes from Bingo Enabling Act §2001.407(f). That section does not provide for  
2 the sale of pull-tabs.

3 The amendments to Rule 402.210 require organizations to prohibit any person from  
4 offering to sell bingo products or offering to award bingo prizes to persons outside of a bingo  
5 occasion via a telecommunications device.

6 The amendments to Rule 402.212 clarify that approval for a promotional bingo event will  
7 only be issued if the request complies with all the requirements of the rule.

8 The amendments to Rule 402.300 are necessary to break the current Rule 402.300,  
9 regarding pull-tab bingo tickets, into smaller rules for ease of reference. There are no changes to  
10 the rule language from the current version.

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

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

17 The amendments to Rule 402.326 delete an obsolete reference to "dedicated modem phone  
18 lines."

19 The amendments to Rule 402.334 provide that a manufacturer must provide any software  
20 necessary to determine if its shutter card bingo system meets rule requirements.

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

1           The amendments to Rule 402.401 clarify that a regular organization that surrenders its  
2 regular license may retain up to 12 unused temporary licenses so long as their dates-of-use are  
3 designated within 10 days of the surrender. The amendments also correct references to two forms.

4           The amendments to Rule 402.402 eliminate the requirement for an applicant to list his or  
5 her race on an application for the worker registry.

6           The amendments to Rule 402.404 eliminate unnecessary references to “regular” licenses.

7           The amendments to Rule 402.411 allow the division to “provide” renewal notices rather  
8 than “mail” them, and delete a reference to the timely submission of license renewal applications,  
9 which is no longer necessary due to the proposed new Rule 402.105.

10          The amendments to Rule 402.443 provide that a grandfathered license held by a legal entity  
11 is not considered to be transferred due to changes to the legal entity so long as the entity’s taxpayer  
12 number remains the same. This rule codifies the Commission’s practice on the transfer of  
13 grandfathered lessor licenses and conforms with a previously issued Office of the Attorney General  
14 Opinion. This change addresses a gap that was identified by the Sunset Report.

15          The amendments to Rule 402.500 codify the Commission’s practice that bingo operations  
16 must use cash basis accounting.

17          The amendments to Rule 402.502 eliminate unnecessary language related to the kinds of  
18 documentation that may be relied on to prove charitable distributions were properly made.

19          The amendments to Rule 402.600 delete references to the timely submission of bingo  
20 reports and payments. These references are no longer necessary due to the new rule on timeliness  
21 of all submissions at Rule 402.105.

1           The amendments to Rule 402.601 provide that a credit of \$100 or less entered by an  
2   organization or lessor on its quarterly report will be accessible for viewing in the Bingo Service  
3   Portal, rather than preprinted on the quarterly report.

4           The amendments to Rule 402.602 eliminate waivers of penalties and interest due to the late  
5   payment of prize fees. Penalties and interest for late prize fee payments come from BEA  
6   §2001.504. That section does not provide for a waiver of the penalty and interest, in contrast to  
7   BEA §2001.451(k) which explicitly allows the director to waive net proceeds and charitable  
8   distribution requirements. The difference between those provisions indicates that the legislature  
9   did not intend to give the director the ability to waive penalties and interest for the late payment  
10  of prize fees.

11          The amendments to Rule 402.702 eliminate a reference to a statute that no longer exists.

12          The amendments to Rule 402.703 provide that a licensee’s compliance history shall be  
13   considered as a risk factor in audit determinations. This change addresses a gap that was identified  
14   by the Sunset Report.

15          The amendments to Rule 402.706 eliminate warnings for first time violations of serious  
16   offenses or repeat violations of lesser offenses. The amendments also provide a definition of  
17   “repeat violation.” This change addresses a gap that was identified by the Sunset Report.

18          The amendments to Rule 402.707 change the bingo operations director’s pronoun from  
19   “his” to “his or her”; reiterate that formal complaints must be in writing; and eliminate warnings  
20   for repeat offenses. This change addresses a gap that was identified by the Sunset Report.

21          On December 4, 2024, the Commission held a public hearing to receive public comments  
22   on the proposed rules. No one from the public appeared at the hearing and no comments were  
23   received at the hearing.



1           On December 3, 2024, the Commission received written comments from Stephen Fenoglio  
2   on behalf of Texas Charity Advocates (TCA) and the Bingo Interest Group (BIG) in the form of a  
3   red-lined version of the rule proposal document. At the December 4, 2024 meeting of the BAC,  
4   Mr. Fenoglio elaborated on the written comments orally. In the following responses, TCA/BIG's  
5   written and oral comments have been combined and treated as a single public comment.

6           COMMENT: Rule 402.100(9), defining "premises," does not include the grandfathering  
7   provision from Tex. Occ. Code 2001.403(b), which allows for more than one premises under a  
8   common roof or over a common foundation for licensees in existence on or before May 23, 1997.  
9   TCA/BIG appreciates that the definition specifically excludes a virtual location or place.

10          RESPONSE: Staff agrees and has incorporated this comment into the adopted version.

11          COMMENT: Rule 402.102(n)(3), regarding the Bingo Advisory Committee's annual  
12   workplan, should be amended to include the following: "The workplan shall allow the BAC to  
13   review and comment on other states' laws." TCA/BIG comments that "...the Sunset Advisory  
14   Commission observed correctly that it makes no sense that the BAC cannot comment on other  
15   states' bingo activities..." and that there is no prohibition against it in the Bingo Enabling Act or  
16   the Rules.

17          RESPONSE: Staff does not recommend changing the rule at this time because the Sunset  
18   Report recommended modifications to the Bingo Enabling Act to "...ensure the BAC can fully  
19   advise the commission on all aspects of bingo by prohibiting the commission from restricting  
20   bingo-related topics the committee can discuss." The Commission looks forward to statutory  
21   guidance and will adhere to any direction that is provided by the Legislature.

22          COMMENT: New Rule 402.105, regarding the timely filing of forms, reports,  
23   applications, and payments, should allow for contract carriers as well as common carriers.

1           RESPONSE: Staff agrees and has incorporated this comment into the adopted version.

2           COMMENT: Regarding Rule 402.200(q) prohibiting the use of credit payments in bingo,  
3 TCA/BIG would like staff to explain what is meant by: "...regardless of how the transaction is  
4 structured."

5           RESPONSE: This rule is being amended in response to the Sunset Report's note that there  
6 is "[n]o clarification that bingo products may not be purchased using a credit card despite a 2017  
7 bingo advisory opinion stating as much." The language of this amendment is taken verbatim from  
8 that opinion, 2017-0816-0004. "Regardless of how the transaction is structured" was likely  
9 included because the opinion request presented several hypothetical situations involving different  
10 payment structures. The intent of the language is to make it clear that credit payments will not be  
11 allowed under any circumstances. Staff does not recommend any changes to the proposed language  
12 in response to this comment.

13          COMMENT: Rule 402.201(b), relating to the agency's handling of complaints regarding  
14 illegal bingo, should be changed from "...will issue a cease and desist letter and copy local law  
15 enforcement..." to "...shall issue..." because "...shall' is a stronger verb..." TCA/BIG would  
16 also like to require the agency to copy "...Facebook, Tiktok, Instagram, or other social media  
17 platform if the location is known."

18          RESPONSE: Staff does not recommend any changes based on this comment. There is no  
19 substantive difference between "will" and "shall" – both verbs require the agency to notify local  
20 law enforcement. As for notifying social media companies, the agency does not have unlimited  
21 resources to respond to complaints of online gambling. The Commission has reached out to social  
22 media companies in the past when it had their contact information available and it will continue to  
23 do so, but the agency should not require itself to establish and maintain those contacts in perpetuity.

1 Illegal bingo is a crime and jurisdiction rests with local law enforcement, for which the agency has  
2 readily available contact information.

3 COMMENT: Rule 402.309(3)(A)’s requirement for organizations to maintain a disposable  
4 bingo card/paper sales summary showing a distributor’s taxpayer number is unnecessary because  
5 that information is available on the Commission’s website. TCA/BIG also recommends adding  
6 “...for four years...” to the requirement to maintain a perpetual inventory in (3)(C). They also  
7 comment that in subsection (3)(D), the Commission should be required to witness an  
8 organization’s destruction of bingo cards/paper within 30 days of an organization’s notification.

9 RESPONSE: Staff does not recommend any changes based on these comments. These  
10 record keeping requirements were discussed during the rule review process and staff determined  
11 that all of the required information in the rule was necessary to maintain the integrity of the audit  
12 process. The addition of “...for four years...” to (3)(C) is unnecessary because a 4-year  
13 maintenance requirement is already present in (4) for “[a]ll records identified in this subsection....”  
14 Staff does not recommend changing subsection (3)(D). The Charitable Bingo Operations Division  
15 will provide a staff member to witness the destruction of bingo paper/cards as soon as is  
16 practicable, but it should not bind itself by rule to a 30-day deadline that may be inappropriate due  
17 to any number of factors.

18 COMMENT: Rule 402.402(a)(9), the definition of “salesperson” should be amended to  
19 allow those employees to record sales of bingo cards and pull-tabs.

20 RESPONSE: Staff does not recommend amending this rule at this time. This comment is  
21 unique among the others in that it (1) addresses an issue that was not discussed at all during the  
22 rule review process and (2) appears only in TCA/BIG’s written comment, without any explanation  
23 or mention in their oral comment. The current rule provides that only a cashier may record bingo

1 card and pull-tab sales. Staff does not have any information to support an amendment, but we  
2 welcome discussion of this issue at future BAC meetings.

3 COMMENT: TCA/BIG supports the language used in Rule 402.443 regarding the transfer  
4 of a grandfathered lessor's commercial lessor license.

5 RESPONSE: No response necessary.

6 COMMENT: TCA/BIG's written comment on Rule 402.500(e), regarding the requirement  
7 to use cash basis accounting, states: "Do we care? The SEC mandates all publicly traded companies  
8 to use accrual accounting, not cash basis accounting." Their oral comment on the item was "My  
9 clients' conclusion was we like the cash accounting the way it is.... So, after much discussion,  
10 they agreed to keep the language as it is."

11 RESPONSE: The agency declines to make any changes to the rule as proposed. The written  
12 comment was not formally withdrawn, but it appears from the oral comment that TCA/BIG has no  
13 issues with the rule as drafted.

14 COMMENT: Regarding Rule 402.600, Bingo Reports and Payments, TCA/BIG's written  
15 comment notes that "There are times when the Commission's system will not accept quarterly  
16 filings." Their oral comment included the following: "I've asked [the bookkeepers] for the specific  
17 example, and I haven't gotten one yet other than, '[w]ell, we've had this problem before.'"

18 RESPONSE: Staff does not recommend any changes to this rule because this comment  
19 does not suggest any issues with the rule language. The Charitable Bingo Operations Division will  
20 continue to collaborate with the BAC on improvements to the Bingo Service Portal in accordance  
21 with the Sunset Report.

22 COMMENT: TCA/BIG disagrees with the modifications to the Standard Administrative  
23 Penalty Chart in Rule 402.706 that eliminate warnings for first time offenses of Category 1 and 2

1 violations. They note that “[t]hese changes are designed to take money from the charities, even if  
2 an honest mistake has been made.” They appreciate that the current rule – which allows for a  
3 warning – gives the bingo director the discretion to be more lenient on a case-by-case basis.

4 RESPONSE: Staff does not recommend making any changes to the rule based on this  
5 comment. The Sunset Report recommended that the agency revise its schedule of sanctions to  
6 better align penalties with the severity of the violation. The Sunset Report states: “Specifically,  
7 CBOD should...consider eliminating \$0 penalties for the most serious violations.” The agency  
8 appreciates the Texas Sunset Advisory Commission’s review and is implementing its rulemaking  
9 recommendations. The new penalties start at \$250 and they are not “designed to take money from  
10 the charities,” but to deter violations.

11 The repeals, new rules and amendments are adopted under Texas Occupations Code  
12 §2001.054, which authorizes the Commission to adopt rules to enforce and administer the Bingo  
13 Enabling Act, and Texas Government Code §467.102, which authorizes the Commission to adopt  
14 rules for the enforcement and administration of the laws under the Commission’s jurisdiction.  
15 §402.100. Definitions.

16 The following words and terms, when used in this chapter and Texas Occupations Code, Chapter  
17 2001, shall have the following meanings, unless the context clearly indicates otherwise.

18 (1) State law--Texas statutes and reported court cases.

19 (2) Calendar week--A period of seven consecutive days commencing with Sunday and  
20 ending with Saturday.

21 (3) Calendar year--A period of 12 consecutive months commencing with January 1 and  
22 ending with December 31.

1 (4) Commission--The Texas Lottery Commission, the agency created by H.B. 54, 72nd  
2 Leg., 1st C.S. (1991), as amended by H.B. 1587 and H.B. 1013, 73rd Leg. R.S., 1993.

3 (5) Conductor--A licensed authorized organization.

4 (6) Director--The Director of the Charitable Bingo Operations Division, commonly known  
5 as the bingo division, of the Commission.

6 (7) Operator--A natural person designated pursuant to authority of the Bingo Enabling Act.

7 (8) 24-hour period--A period of 24 consecutive hours commencing at 12:00 midnight.

8 (9) Premises--The area subject to the direct control of and actual use by a licensed  
9 authorized organization or group of authorized organizations to conduct bingo. There may not be  
10 more than one premises under a common roof or over a common foundation, except under a license  
11 that was in existence on or before May 23, 1997. A premises must have an address. The term does  
12 not include a virtual location or place.

13 §402.101. Advisory Opinions.

14 (a) Time Period.

15 (1) The Commission shall respond to an advisory opinion request not later than the 60th  
16 day after the later date of when the Commission receives the written request containing sufficient  
17 facts or receives the additional information pursuant to a request for additional information to  
18 provide an answer on which the requestor may rely. However, if the Commission requests an  
19 attorney general opinion on a matter that is the subject of an advisory opinion request the deadlines  
20 are tolled until 30 days following the issuance of the attorney general opinion.

21 (2) The Commission shall notify the person making the request of the date the advisory  
22 opinion request is received and of the advisory opinion number.

1           (3) The authority granted by Occupations Code, §2001.059, may be delegated to the  
2 Charitable Bingo Operations Director or his or her designee. The Commission by separate order  
3 may delegate to an employee of the Commission the authority granted.

4           (4) The Commission retains the authority to issue advisory opinions pursuant to  
5 Occupations Code, §2001.059. The delegation of authority merely augments the Commission's  
6 ability to perform the duties and functions of the Commission with respect to issuing advisory  
7 opinions.

8 (b) Request for an Advisory Opinion.

9           (1) An officer, bingo chairperson, or authorized representative of a license holder or an  
10 attorney, accountant, or bookkeeper employed or retained by a license holder may request from  
11 the Commission an advisory opinion regarding compliance with this chapter and the rules of the  
12 Commission.

13           (2) A person requesting an advisory opinion shall do so by sending the request in writing  
14 addressed to Advisory Opinion, Charitable Bingo Operations Division, Texas Lottery  
15 Commission, and P.O. Box 16630, Austin, Texas 78761-6630 or by e-mail to  
16 [Advisory.Opinion@lottery.state.tx.us](mailto:Advisory.Opinion@lottery.state.tx.us).

17           (3) A request for an advisory opinion shall describe a specified factual situation. The  
18 request shall make clear that it is a request for an advisory opinion under Occupations Code,  
19 §2001.059, and state in sufficient detail all facts upon which the request for opinion is based to  
20 permit the Commission to provide a response to the request and shall contain the name and address  
21 of the person requesting the opinion. The request may be accompanied by supporting legal  
22 arguments and citations of law or rules as the requesting person deems pertinent. Any other person

1 may also submit legal arguments, citations of law or rules, or legal briefs within 30 days of the  
2 date of the request for opinion.

3 (c) Request for Additional Information.

4 (1) If the Commission determines that the request for an advisory opinion does not contain  
5 sufficient facts to provide an answer, the Commission shall request additional written information  
6 from the requestor not later than ten calendar days after the request for advisory opinion was  
7 received by the Commission.

8 (2) If no additional information is supplied to the Commission within ten calendar days of  
9 the date of the Commission's request and the Commission determines that the request does not  
10 contain sufficient facts to provide an answer, then no opinion can be issued and the advisory  
11 opinion request file will be closed. In this instance, the requestor will be given a statement that no  
12 opinion can be expressed with regard to a given fact situation due to the failure to supply additional  
13 information.

14 (3) The response to a Commission request for additional information shall be addressed to  
15 Advisory Opinion, The Charitable Bingo Operations Division, Texas Lottery Commission, and  
16 P.O. Box 16630, Austin, Texas 78761-6630 or by e-mail to [Advisory.Opinion@lottery.state.tx.us](mailto:Advisory.Opinion@lottery.state.tx.us)  
17 in order to permit the Commission to provide a response to the request.

18 (d) Subject of an Advisory Opinion.

19 (1) The Commission may refuse to issue an advisory opinion on a matter that the  
20 Commission knows to be in active litigation including a contested administrative case.

21 (2) An advisory opinion cannot resolve a disputed question of fact other than to provide a  
22 response which refers to the applicable statutes and rules.

23 (e) Response.



1 (1) A request for an advisory opinion that contains sufficient facts shall initially be referred  
2 to any appropriate personnel within the Charitable Bingo Operations Division for review and  
3 written comment.

4 (2) If the Commission determines that a request for an advisory opinion has already been  
5 answered by the Commission, then the Commission may provide a written response to the  
6 requestor that cites the prior advisory opinion.

7 (3) The Commission may publish the response on its website.

8 (4) The response shall clearly state that the opinion is advisory in nature and is restricted  
9 to the fact situation identified in the opinion.

10 (5) A requestor may rely upon an advisory opinion if the conduct is substantially consistent  
11 with the opinion and the facts stated in the request.

12 (6) The Commission cannot grant nor confer legal authority beyond the statute or rule  
13 which is the subject of the request for advisory opinion.

14 (7) A previously issued advisory opinion not in accord with the current Commission  
15 statutes and rules may be modified or revoked, but in such an instance the modification or  
16 revocation shall operate prospectively only.

17 §402.102. Bingo Advisory Committee.

18 (a) What is the purpose of the Bingo Advisory Committee (BAC)?

19 (1) The purpose of the BAC is to:

20 (A) advise the Commission on the needs and problems of the state's bingo industry;

21 (B) report the activities of the BAC to the Commission; and

22 (C) perform other duties as directed by the Commission.

23 (2) The BAC's sole duty is to advise the Commission.

(3) The BAC has no executive or administrative powers or duties with respect to the operations of the Charitable Bingo Operations Division.

(b) What is the composition of the Bingo Advisory Committee?

(1) The Commission may appoint nine persons as members of the BAC.

(2) The Commission must appoint members to represent the following interest groups:

(A) the public;

(B) conductors that are not licensed commercial lessors;

(C) conductors that are licensed commercial lessors;

(D) commercial lessors;

(E) licensed manufacturers; and

(F) licensed distributors.

(c) What are the minimum eligibility requirements to serve on the BAC?

(1) A member may not represent a licensee that is delinquent in payment of any prize fees for which a final jeopardy determination has been made by the Commission.

(2) A member representing the public may not be an individual who is required by statute to be listed on a conductor, commercial lessor, manufacturer, or distributor license application.

(3) A member must meet the criminal history standards in Bingo Enabling Act Sections 2001.105(b), 2001.154(a)(1), 2001.202(1), and 2001.207(1).

(4) A nominee for membership must provide complete and accurate information on the nomination form.

(d) How are members nominated to serve on the BAC?

(1) Individuals may submit a nomination form during the nomination period determined by the Commission.

(2) Nomination forms are available from the Charitable Bingo Operations Division or the Commission's website.

(e) What is the appointment process?

(1) Commission staff verifies eligibility and qualifications of nominees and sends all nominations that meet minimum requirements to each Commissioner.

(2) Each Commissioner may interview those nominees.

(3) The BAC may be a resource to the Commission by reviewing nominations, interviewing prospective members, and submitting its recommendations to the Commissioners for consideration. However, the BAC will not act to exclude nominees.

(4) The Commissioners shall appoint a nominee based on a review of the nomination form and/or interview.

(f) Each member serves at the pleasure of the Commission or until they resign or are unable to serve.

(g) May a BAC member be removed from the BAC before the member's term has expired? The Commission may remove a member at any time without cause.

(h) When and where does the BAC meet?

(1) The BAC may meet quarterly or more frequently at the Commission's request.

(2) BAC meetings may be held virtually or at a state office building in Austin, Texas.

(i) Who conducts the BAC meeting?

(1) The BAC must annually select a presiding officer to conduct meetings and general business.

(2) The presiding officer must designate a member of the BAC to conduct meetings and general business in the presiding officer's absence.

(j) Are BAC meetings open to the public? Yes. The BAC must publish notice of a BAC meeting at least 10 full days prior to the date of the meeting. The meeting notice shall include the time, day, and location of the meeting as well as the agenda items. The BAC presiding officer shall request the Commission, through Commission staff, post the notice on the Commission's website.

(k) May a member send a substitute person or proxy vote to a BAC meeting? A member may not send a substitute person or proxy vote to a meeting.

(l) Are minutes kept of BAC meetings?

(1) The BAC must keep minutes of each meeting reflecting all formal action taken.

(2) The BAC may consider a transcript prepared by a court reporter to be the minutes of the meeting. The Commission will provide a court reporter (or transcript service if a court reporter is not available) to prepare a transcript of each BAC meeting.

(3) The BAC must approve the minutes at its next meeting, and file the approved minutes with the Charitable Bingo Operations Division Director, who shall post the approved minutes on the Commission's website.

(m) What is the BAC's annual workplan?

(1) The workplan will contain items that the Commission determines.

(2) The BAC may submit to the Commission for their consideration and approval additional items for the workplan that are relevant to the state of the bingo industry.

(n) What are the BAC's reporting requirements?

(1) The BAC must report their activities quarterly to the Commission, although the Commission may require reporting more frequently.

(2) The BAC will report annually to the Commission the BAC's perspective on the state of the charitable bingo industry in Texas with specific comments on the following:

- (A) adjusted gross receipts;
- (B) net receipts;
- (C) charitable distributions;
- (D) expenses;
- (E) attendance; and
- (F) any other matter requested by the Commission.

(3) At the final Commission meeting of any state fiscal year, the BAC will report to the Commission on its activities relating to the Commission-approved workplan for the preceding fiscal year.

(o) When does the BAC cease to exist? The BAC will cease to exist annually on August 31, unless the Commission, prior to August 31, votes to continue the BAC. The Commission may continue the BAC with the current members in place.

#### §402.103. Training Program.

(a) Definitions. The following words and terms, when used in this section, shall have the following meanings.

(1) On-line training course--A training course developed by the Commission that is accessible on the Commission's website and may be taken at any time.

(2) On-site training course--A training course conducted by a Commission employee held at a specified date, time, and location.

(3) Primary training course--Comprehensive initial training required for all individuals who have never held a valid certificate of completion.

(4) Continuing education course--Refresher training for individuals who have held a valid certificate of completion.

(5) Certificate of completion--Documentation issued by the Commission certifying an individual's completion of the training program that is valid for two years.

(b) Training format. The training program is offered online and may be offered on-site.

(c) Required training.

(1) At all times the bingo chairperson and a designated agent of a unit must have a valid certificate of completion for the training program unless the organization is a member of a unit that designates a unit manager under §2001.437 of the Bingo Enabling Act. A designated unit manager must have a valid certificate of completion for the training program.

(2) All individuals listed in paragraph (1) of this subsection who have not previously been issued a certificate of completion are required to take the primary training course.

(3) Subsequent training requirements may be met by taking either a primary or continuing education training course.

(4) As part of the terms of a Commission order, the Commission may direct one or more members of a licensed authorized organization to complete the primary or continuing education training course within a specified timeframe, regardless of whether or not the individual(s) has a valid certificate of completion.

(5) Non-regular conductors are not subject to training requirements.

(d) Optional training. Other individuals including operators, officers, directors, or members of a licensed authorized organization may take a training course.

(e) Content of the primary training course. The primary training course covers, at a minimum, the following areas:

(1) Overview of the Bingo Enabling Act and Charitable Bingo Administrative Rules;

(2) Conducting a bingo game;

- (3) Record keeping requirements;
- (4) Administration and operation of charitable bingo;
- (5) Promotion of a bingo game;
- (6) Bingo Advisory Committee; and
- (7) General information about the license application process.

(f) On-site training course.

(1) Notice of the specified date, time and location of scheduled on-site training courses will be posted on the Commission's website.

(2) A person attending an on-site training course should pre-register by:

(A) completing an electronic submission form prescribed by the Commission located on the Commission's website; or

(B) telephoning the Commission's headquarters location and providing the information requested on the form prescribed by the Commission.

(3) To confirm attendance, each individual attending a training course must sign the attendance sheet provided by the Commission at the training course.

(4) A person must attend a complete course to receive a certificate of completion.

(5) The Commission instructor has discretionary authority to determine whether a person has attended a complete course in order to receive the certificate of completion.

(6) All reasonable and necessary expenses or costs of attendance by any member of the licensed authorized organization may be paid from the licensed authorized organization's bingo bank account. Expenses and costs are limited to travel, lodging, meals, and materials.

(7) In the event the Charitable Bingo Operations Division cancels the on-site training, reasonable effort will be made to notify persons who have pre-registered.

1 (g) On-line training course. Persons taking the on-line training course must:

2 (1) complete the training modules as specified on the Commission's website; and

3 (2) obtain a certificate of completion through the automated program on the website.

4 §402.105 Postmarks, Receipt Marks, Timely Filing of Forms, Reports, Applications and Payment  
5 of Fees.

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

8 (1) Common carrier—A person who provides transportation of persons or property to  
9 members of the general public for compensation in the normal course of business.

10 (2) Receipt mark—An official mark printed by a common carrier recording the date and  
11 place of mailing.

12 (3) United States Postal Service postmark—An official mark printed over a postage stamp  
13 by the United States Postal Service, canceling the stamp and recording the date and place of  
14 mailing. A postmark does not include dates recorded on postage purchased over the internet, pre-  
15 metered stamps, or postage from postage meters unless an actual postmark is generated.

16 (b) General Provisions.

17 (1) All forms, reports, and applications required to be submitted to the commission shall  
18 be filed on or before the due date for filing the form, report, or application.

19 (2) All payments required to be remitted to the commission shall be paid on or before the  
20 due date for making such payments.

21 (3) If the due date falls on a Saturday, Sunday, or legal holiday, the due date is the next  
22 business day.



1 (4) If a form, report, application, or payment is postmarked or receipt-marked on or before  
2 the due date, it will be considered timely filed.

3 (c) Timely Filing or Payment – Postmark or Receipt Mark.

4 (1) To determine whether a form, report, or application has been timely filed, or a payment  
5 timely made, the date of the United States Postal Service postmark or a receipt mark showing when  
6 a report or payment was delivered to a common carrier or contract carrier will be prima facie  
7 evidence of the date the filing or payment was made, so long as the envelope, or common carrier  
8 or contract carrier documentation, reflects a valid commission address.

9 (2) If a report or payment is received through the United States Postal Service and does not  
10 have a postmark, or is received through a common carrier and does not have a receipt mark, the  
11 date of the filing or payment is presumed, in the absence of evidence supporting the assertion of a  
12 different filing date, to be:

13 (A) if received through the United States Postal Service, three days prior to the date  
14 on which the form, report, application, or payment is physically received by the commission, as  
15 evidenced by commission records; or

16 (B) if received through a common carrier, one day prior to the date on which the  
17 report or payment is physically received by the commission, as evidence by commission records.

18 (3) If a licensee penalized for late filing or late payment can provide a postmark or receipt  
19 mark complying with the requirements of timely filing and timely paying but, through no fault of  
20 the licensee, the form, report, application, or payment arrived after the due date, the filing or  
21 payment will be considered timely. The licensee's testimony that the form, report, application, or  
22 payment was sent will not be considered as evidence of timely filing or payment.

(4) A form, report, application, or payment that is submitted electronically will be considered filed or paid on the date it is received.

§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:

1 (A) bingo equipment malfunctions; and

2 (B) improper bingo ball calls or placements.

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

4 (1) owned by a licensed authorized organization;

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

7 (3) owned or leased by a licensed commercial lessor; or

8 (4) leased or used by the holder of a temporary license who does not hold a regular license.

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

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

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

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

3 (h) Donated bingo prizes. A licensed authorized organization may accept or award donated bingo  
4 prizes. A donated bingo prize shall be valued at its current retail price.

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

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

9 (A) how the game will be played;

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

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

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

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

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

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

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

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

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

3 (C) the patterns needed to win;

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

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

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

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

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

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

20 (k) Bingo worker requirements.

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

23 (2) A bingo worker shall not:

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

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

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

7 (l) Caller requirements. The caller shall:

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

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

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

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

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

14 (4) announce:

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

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

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

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

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

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

5 (m) Verification.

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

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

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

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

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

21 (B) Availability of this additional verification, done as a request from players, shall  
22 be made known either verbally prior to the bingo occasion, printed on the playing schedule, or  
23 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 \$5,000. 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.

(q) A licensed authorized organization may not accept credit cards or any other type of credit payments for the payment of bingo products, regardless of how the transaction is structured.

#### §402.201. Prohibited Bingo Occasions.

(a) No licensee shall sell bingo cards for a bingo occasion or commence or continue a bingo occasion unless an active member that has been designated pursuant to the Occupations Code, §2001.411, is physically present at the bingo premises and is actively supervising and directing the sale of bingo cards and the bingo occasion. Any sale of bingo cards, game of bingo, or bingo occasion conducted in violation of this provision is a violation of the Bingo Enabling Act.

(b) If a complaint regarding illegal bingo is substantiated, the Commission will issue a cease and desist letter and copy local law enforcement if the location is known.

#### §402.202. Transfer of Funds.

(a) For purposes of §2001.451(c), Texas Occupations Code, "other account" means an account other than the bingo account held in the name of the licensed authorized organization.

(b) Notification of the transfer of funds into the bingo account or bingo unit account must be submitted on a form prescribed by the Commission.



1 (c) An applicant for an original license to conduct bingo must not have a bingo bank account until  
2 licensed. Any funds transferred to the bingo bank account after the license is issued must provide  
3 a Transfer of Funds-Bingo Bank Account form to the Commission no later than 14 calendar days  
4 after the date the funds were transferred.

5 (d) The licensed authorized organization must show the amount of transferred funds on the Texas  
6 Bingo Quarterly report for the quarter the funds were transferred.

7 (e) A licensed authorized organization or unit must maintain records to substantiate the transfer of  
8 funds into or removed from the bingo account or bingo unit account.

9 (f) All or part of the transferred funds may be transferred from the bingo account or bingo unit  
10 account back to the licensed authorized organization or unit. The amount of transferred funds  
11 removed from the licensed authorized organization's bingo account or bingo unit account must be  
12 shown as reimbursed transferred funds on the Texas Bingo Quarterly report for the quarter the  
13 funds were removed.

14 (g) Funds transferred to the bingo account or bingo unit account may be used for authorized  
15 expenses but will not be used to determine if the organization's bingo operation resulted in net  
16 proceeds over its license period.

17 (h) Only funds from a licensed authorized organization's other account may be transferred into its  
18 bingo account or bingo unit account if the licensed authorized organization is a member of an  
19 accounting unit at the time the funds are transferred.

20 (i) At the time the funds are transferred into a bingo account or bingo unit account the reconciled  
21 bank balance for the quarter that the funds were transferred into the bingo account or bingo unit  
22 account may not exceed the licensed authorized organization's or unit's authorized quarterly  
23 operating capital as determined by the Commission.

1     §402.203. Unit Accounting.

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

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

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

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

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

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

17    (e) Unit Representation.

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

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

23                    (A) the unit agreement or trust agreement;

1 (B) submission of all required forms;

2 (C) unit Quarterly Report; and

3 (D) unit's bingo records.

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

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

10 (f) Unit's Use of Proceeds.

11 (1) All distributions of net proceeds of the unit shall be paid from the unit's bingo account  
12 to the account designated by the unit member. Each unit member is required to maintain adequate  
13 records establishing that the use of such net proceeds is in accordance with Occupations Code  
14 §2001.454.

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

17 (g) Unit Transactions.

18 (1) Upon prior written consent by the Commission:

19 (A) a licensed authorized organization may make a sale of bingo cards, a used bingo  
20 flash board or blower to a unit;

21 (B) a unit may make a sale of bingo cards, a used bingo flash board or blower to a  
22 licensed authorized organization; or

1 (C) a unit may make a sale of bingo cards, a used bingo flash board or blower to  
2 another unit.

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

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

8 (h) Unit Recordkeeping.

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

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

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

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

16 (A) date of the occasion;

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

18 (C) operator on duty.

19 (i) Unit Bingo Account.

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

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

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

4                   (A) proceeds from the conduct of bingo;

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

7                   (C) funds transferred by new members or funds transferred in accordance with  
8 §402.202 of this subchapter (relating to Transfer of Funds).

9           (4) A separate deposit must be made for each bingo occasion conducted. Additionally, all  
10 sales and prizes must be recorded in accordance with the rules.

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

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

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

15                           (A) the unit is formed;

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

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

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

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

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

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

5 (5) At the time an organization joins a unit, all of its bingo expenses must be paid from the  
6 unit bingo account including outstanding bingo expenses and subsequent expenses. The total  
7 amount of outstanding bingo expenses should be included in the amount of funds transferred at  
8 the time the unit is formed or at the time of joining an existing unit.

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

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

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

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

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

20 (8) An organization that is required to file a Texas Bingo Quarterly Report for a period  
21 prior to joining a unit must file a Final Disposition of Bingo Proceeds in Bank Account reporting  
22 the final disposition of all proceeds in its bingo account. The form must be submitted with the

unit's "Texas Bingo Quarterly Report" for that quarter and would be subject to all "Texas Bingo Quarterly Report" filing deadlines, requirements and penalties.

(k) Distribution of Funds Upon Withdrawal or Dissolution.

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

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

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

(l) Responsibilities of Unit Members.

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

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

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

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

3 (5) If a unit demonstrates that a violation of this subchapter or commission rules is wholly  
4 attributable to a specific licensed authorized organization member or members of the unit, a  
5 penalty for the violation may not be imposed on a unit member to which the violation is not  
6 attributable and the penalty imposed on a unit member to which the violation is attributable may  
7 not be in an amount greater than the amount initially assessed against each unit member.

8 §402.210. House Rules.

9 (a) House rules are rules adopted by the licensed authorized organization that have been developed  
10 by its officers to inform players in detail of how the organization will conduct its bingo games.

11 (b) The licensed authorized organization shall develop house rules.

12 (c) The licensed authorized organization shall adhere to its house rules.

13 (d) The operator on duty is responsible for ensuring house rules are consistently applied.

14 (e) The house rules must be posted at a location within the bingo premises that is easily accessible  
15 to all patrons and made available to anyone upon request.

16 (f) House rules shall not conflict with the Bingo Enabling Act or the Charitable Bingo  
17 Administrative Rules.

18 (g) House rules shall prohibit any person from offering to sell bingo products, or offering to award  
19 bingo prizes to persons outside of the licensed location during an occasion via cell phone, laptop  
20 computer, electronic tablet, or other telecommunications device.

21 §402.212. Promotional Bingo.

22 (a) Definitions.



1 (1) Newspaper--a printed periodical that is distributed at daily, weekly, bi-weekly or  
2 monthly intervals that contains news, articles of opinion, features, and advertising.

3 (2) Radio station--a licensed transmission station whose programming is broadcast over  
4 AM or FM waves or is transmitted by cable or satellite systems and can be listened to via a radio  
5 or a home computer.

6 (3) Television station--a licensed transmission station whose programming is broadcast  
7 over HF, VHF waves or is transmitted via a cable or satellite system and is viewable by television  
8 or a home computer.

9 (4) Advertising agency--a commercial operation involved with the design and sale of  
10 various advertisements and promotional concepts including promotional bingo to attract the  
11 public's attention on the behalf of another business.

12 (b) Restrictions.

13 (1) A player of a promotional bingo game cannot be required to provide personal  
14 information beyond name and contact information, money, goods, or services in order to receive  
15 playing materials or to participate in any facet of the game.

16 (2) A player of a promotional bingo game cannot be required to incur conditions or  
17 obligations such as requiring a purchase, providing an interview, attending a sales seminar, or  
18 posing for a photograph in order to receive playing materials or to participate in any facet of the  
19 game.

20 (3) A person whose identification is required to be disclosed on a Texas bingo license  
21 record may not:

22 (A) be involved in the conduct of a promotional bingo game;

1 (B) have any ownership, serve on the board of directors, or have any role in the  
2 sales, marketing, or advertising of the business conducting the promotional game;

3 (C) have any ownership or serve on the board of directors of the advertising agency  
4 hired by the business conducting the promotional game or serve in any role for the advertising  
5 agency related to the sales, marketing, or advertising for the business conducting the promotional  
6 game; and

7 (D) have any ownership or serve on the board of directors of the newspaper, radio  
8 or television station assisting the business conducting the promotional game or serve in any role  
9 for the newspaper, radio, or television station related to the sales, marketing, or advertising for the  
10 business conducting the promotional game or the advertising agency.

11 (c) Notification.

12 (1) A business wishing to conduct promotional bingo must provide to the Commission 30  
13 days prior to the start of the game:

14 (A) notification on a completed, prescribed form;

15 (B) copy of the rules for the game; and

16 (C) copy of the bingo card to be used or an example of the bingo card to be used  
17 and the licensed manufacturer's name, if applicable.

18 (2) The commission will issue a Recognition of Exemption Notice for Promotional Bingo  
19 Games letter to the business filing a notice that complies with the requirements of this section.

20 (d) Record Keeping. Records of the transactions connected with the game must be maintained for  
21 a period of 4 years from the conclusion of the authorized promotional bingo game.

22 §402.300. Pull-Tab Bingo Definitions.

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.

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

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

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

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

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

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

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

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

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

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

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

14 and

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

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

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

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

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

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

6 (A) a designated payout; or

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

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

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

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

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

17 ~~§402.301. Bingo Card/Paper.~~

18 §402.301. Approval of Pull-Tab Bingo Tickets.

19 (a) Approval of Pull-Tab Bingo Tickets.

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

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

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

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

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

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

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

23 (b) 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 artwork 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 distributor 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.

§402.302. Pull-Tab Bingo Manufacturing Requirements.

Manufacturing Requirements.



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

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

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

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

22 (5) A flare must accompany each deal.

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

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

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

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

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

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

18 (12) Pull-tab bingo tickets must:

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

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

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

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

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

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

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

21 (H) have the Commission's seal placed on all pull-tab bingo tickets by only a  
22 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.

~~§402.303. Pull tab or Instant Bingo Dispensers.~~

§402.303. Pull-Tab Bingo Sales and Redemption.  
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

1 occasion at which the first event pull-tab bingo ticket from that deal was sold. A winning event  
2 pull-tab ticket must be presented for payment during the same bingo occasion at which the event  
3 occurred.

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

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

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

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

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

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

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

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

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

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

17 §402.304. Pull-Tab Bingo Record Keeping.

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

21 (b) 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 §402.305. Pull-Tab Bingo Styles of Play.

14 The following pull-tab bingo tickets are authorized by this rule. A last sale feature can be utilized  
15 on any pull-tab bingo ticket.

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

21 (2) Sign-up Board Ticket. A sign up board ticket is a form of pull-tab bingo played with a  
22 sign-up board. A single window or multiple windows sign-up board ticket reveals a winning (or  
23 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 §402.306. Bingo Card/Paper Definitions.

3 The following words and terms, shall have the following meaning unless the context clearly  
4 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 which when  
10 called could result in an additional prize awarded. Bonus number(s) must be announced prior to  
11 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 may have 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.

(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.

(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.

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 §402.307. Bingo Card/Paper Approval.

14 (a) Approval of Bingo Card/Paper.

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

19 (2) A letter of introduction including the style of play must be presented to Commission  
20 headquarters for review. The manufacturer must submit one complete color positive or sample for  
21 each type of bingo card/paper. The color positive or sample may be submitted in an electronic  
22 format prescribed by the Commission in lieu of the hardcopy submission. The color positive or  
23 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 (b) 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 §402.308. Bingo Card/Paper Manufacturing Requirements.

23 Manufacturing Requirements.

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

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

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

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

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

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

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

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

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

18 (4) Packaging.

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

22 (B) Barcodes may be included on each bingo card/paper, package, or case provided  
23 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.

§402.309. Bingo Card/Paper Record Keeping.  
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;



1 (D) Name and address of the purchaser; and

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

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

5 (A) Sales invoice;

6 (B) Credit memos;

7 (C) Sales journal; and

8 (D) Purchase records.

9 (3) Licensed authorized organization.

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

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

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

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

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

§402.310. Bingo Card/Paper Styles of Play.

(a) Braille Cards. Braille cards are bingo equipment as defined by Occupations Code, §2001.002(5) and must be approved by the Commission. Players may not use their own personal braille cards.

(b) 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 bingo equipment as defined by Occupations Code, §2001.002(5) and must be approved by the Commission.

(c) 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.

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

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

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

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

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

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

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

1 (10) Break-open bingo. A type of bingo game played on sealed disposable bingo  
2 card/paper, where the bingo card/paper face is concealed, that may be folded, and where the bingo  
3 game has been pre-called. The bingo game may be pre-called prior to the authorized organization's  
4 license time.

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

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

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

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

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

21 §402.311. Pull-Tab or Instant Bingo Dispensers.

22 (a) Approval of Pull-Tab or Instant Bingo Dispensers.

1 (1) No pull-tab or instant bingo dispenser may be sold, leased, or otherwise furnished to  
2 any person in this state or used in the conduct of bingo for public play unless and until a dispenser  
3 which is identical to the dispenser intended to be sold, leased, or otherwise furnished has first been  
4 presented to the Commission by its manufacturer, at the manufacturer's expense, and has been  
5 approved by the Commission for use within the state.

6 (2) An identical dispenser to the dispenser intended to be sold, leased, or otherwise  
7 furnished must be presented to the Commission in Austin, Texas for review. If granted, approval  
8 extends only to the specific dispenser model approved. Any modification must be approved by the  
9 Commission.

10 (3) Once a dispenser has been approved, the Commission may keep the dispenser for  
11 further testing and evaluation for as long as the Commission deems necessary.

12 (b) Manufacturing Requirements.

13 (1) Manufacturers of pull-tab or instant bingo dispensers must manufacture each dispenser  
14 in such a manner to ensure that the dispenser dispenses a break-open bingo ticket, an instant bingo  
15 ticket, a pull-tab bingo game or instant bingo card only after the player inserts money into the  
16 dispenser, and that such ticket, game or card is the sole thing of value which may be redeemed for  
17 cash.

18 (2) Manufacturers of dispensers must manufacture each dispenser in such a manner to  
19 ensure that the device neither displays nor has the capability to determine whether a break-open  
20 bingo ticket, an instant bingo ticket, or a pull-tab bingo game is a winning or non-winning ticket.

21 (3) Manufacturers of dispensers must manufacture each dispenser in such a manner that  
22 any visual animation does not simulate or display rolling or spinning reels.

1 (4) Manufacturers of dispensers must manufacture each dispenser in such a manner that  
2 any stacking column is adjustable for varying lengths of break-open bingo tickets, instant bingo  
3 tickets, or pull-tab bingo games. As an option, a dispenser may use replaceable stacking columns  
4 that accommodate varying lengths of break-open bingo tickets, instant bingo tickets, or pull-tab  
5 bingo games. The dispenser must be adjustable for varying thicknesses of break-open tickets,  
6 instant bingo tickets, or pull-tab bingo games.

7 (5) If the Commission detects or discovers any problem with the dispenser that affects the  
8 security and/or integrity of the break-open bingo ticket, an instant bingo ticket, or a pull-tab bingo  
9 game or dispenser, the Commission may direct the manufacturer, distributor, or conductor to cease  
10 the sale, lease, or use of the dispenser, as applicable. The Commission may require the  
11 manufacturer to correct the defect, malfunction, or problem or recall the dispenser immediately  
12 upon notification by the Commission to the manufacturer. If the manufacturer, distributor, or  
13 conductor detects or discovers any defect, malfunction, or problem with the dispenser, the  
14 manufacturer, distributor, or conductor, as applicable, shall immediately remove the dispenser  
15 from use or play and immediately notify the Commission of such action.

16 (c) Conductor Requirements.

17 (1) A conductor who has purchased or leased a dispenser may not allow another conductor  
18 to use such dispenser unless and until the former conductor has removed its break-open bingo  
19 tickets, instant bingo tickets, pull-tab bingo games and instant bingo cards from the dispenser.

20 (2) Each conductor who uses a dispenser at its bingo occasion shall affix to the dispenser  
21 an identification label which displays the conductor's name and Texas taxpayer identification  
22 number.

1           (3) The keys to open the locked doors to the dispenser's ticket dispensing area and coin  
2   and/or cash box must be in the possession and control of the operator in charge of the occasion, or  
3   someone designated by the operator. The operator in charge or the person designated shall present  
4   the keys to a Commission representative immediately upon request. The operator in charge shall  
5   be responsible for ensuring that the person so designated shall have the keys available at all times  
6   during the occasion.

7           (4) All break-open bingo tickets, instant bingo tickets, pull-tab bingo games or instant  
8   bingo cards in any one column or sleeve must have the same serial number, color description, and  
9   must be of the same kind and type.

10       (d) Inspection. The Commission or the Commission's authorized representative(s) may examine  
11   and inspect any individual pull-tab or instant bingo dispenser. Such examination and inspection  
12   includes immediate access to the dispenser and unlimited inspection of all parts of the dispenser.

13       (e) Records.

14           (1) All records, reports, and receipts relating to the pull-tab or instant bingo dispenser sales,  
15   maintenance, and repairs must be retained by the conductor on the premises where the conductor  
16   is licensed to conduct bingo or at a location designated in writing by the conductor for a period of  
17   four years for examination by the Commission. Any change in the designated location must be  
18   submitted to the Commission in writing at least ten days prior to the change.

19           (2) Manufacturers and distributors must provide and maintain for a period of four years the  
20   following information on each invoice or other document used in connection with a sale or lease,  
21   as applicable:

22               (A) date of sale or lease;

23               (B) quantity sold or leased;

1 (C) cost per dispenser;

2 (D) model and serial number of each dispenser;

3 (E) name and address of the purchaser or lessee; and

4 (F) Texas taxpayer identification number of the purchaser or lessee.

5 (f) Restrictions. No licensee may display, use or otherwise furnish a dispenser which has in any  
6 manner been marked, defaced, tampered with, or which otherwise may deceive the public or affect  
7 a person's chances of winning.

8 §402.324. Card-Minding Systems--Approval of Card-Minding Systems.

9 (a) A card-minding system must not be sold, leased, or otherwise furnished to any person for use  
10 in the conduct of bingo until it has first been tested and certified as compliant with the standards  
11 in this subchapter by an independent testing facility. The card-minding system shall be submitted  
12 for testing at the manufacturer's expense. The testing facility should be required to ensure that the  
13 card-minding system conforms to the restrictions and conditions set forth in these standards. The  
14 approval process is set forth in subsections (b) - (f) of this section.

15 (b) Utilizing an Independent Testing Facility:

16 (1) Manufacturer submits system to lab with letter outlining the card-minding system to be  
17 tested for approval in Texas;

18 (2) Lab performs validation testing to ensure compliance with the Commission's  
19 requirements. Testing may include functional testing and/or modification testing, if applicable;

20 (3) Lab creates certification report which includes file verification methodology,  
21 software/firmware signatures (checksum) and testing results;

22 (4) Manufacturer submits approval request with certification report to the Commission;



1 (5) Once the Commission has received the certification report from the independent testing  
2 facility, the Commission may request a demonstration of the product; and

3 (6) The Commission shall either approve or disapprove the submission based on the test  
4 results and inform the manufacturer and lab of the results within thirty (30) calendar days of receipt  
5 of the test results and any other forms and documentation required to ensure the card-minding  
6 system is compliant with the standards in this subchapter.

7 (c) After the Commission approves a card-minding system, the manufacturer shall notify the  
8 Commission of the date, time and place of the first installation of the system so that a Commission  
9 representative may observe and review the card-minding system.

10 (d) Checksum or digital signatures will be obtained from the proprietary software submitted for  
11 testing to be used to verify that proprietary software at playing locations is the same as the software  
12 that was approved. The manufacturer shall provide any software necessary to view the checksum  
13 or digital signatures.

14 (e) The decision by the director to approve or disapprove any component of a card-minding system  
15 is administratively final.

16 (f) The manufacturer shall be responsible for the costs related to the testing of card-minding  
17 systems.

18 (g) The manufacturer shall be responsible for the travel costs incurred by the Commission to audit  
19 the initial installation of a card-minding system in the state of Texas.

20 (h) All card-minding system approvals issued by the Commission prior to the effective date of this  
21 section remain valid. Any subsequent changes or modifications to an approved system require  
22 compliance with this section.

23 §402.325. Card-Minding Systems--Licensed Authorized Organizations Requirements.

(a) The licensed authorized organization must ensure the site system is accessible to the Commission via remote connection at all times.

(b) The licensed authorized organization must ensure that the receipts for its bingo occasion display the correct licensed authorized organization name, location name, time, and date.

(c) The licensed authorized organization must ensure that the occasion report displays the correct licensed authorized organization name, location name, date of the bingo occasion, and all other required information contained in §402.321(13) of this chapter.

(d) The licensed authorized organization must treat void transactions resulting in a cash refund in the following manner:

(1) The player must present the original receipt which was issued at the time of the purchase of the card-minding device before the purchase can be voided;

(2) The word "void" shall be clearly printed on the receipt issued once the void has occurred;

(3) The player must write his or her name, signature, and amount of refund on the back of the void receipt before a partial or full refund may be issued (unless the player refuses or is unable to provide the required information, in which case the licensed authorized organization shall so note on the back of the receipt); and

(4) All voided receipts, whether cash or other payment or as the result of presales, must be attached to the bingo occasion report printed at the end of each bingo occasion and maintained with the records.

(e) If presales are made and the associated cards are not purchased, loaded, and enabled for play on a card-minding device, then those presales must be voided by the start of the second game of the occasion.

(f) Each licensed authorized organization must record all sales of electronic bingo cards and card-minding devices on the card-minding system point of sale station. Disposable cards, instant bingo pull-tab tickets and event bingo pull-tab tickets and all bingo prizes awarded, including both regular bingo and pull-tab bingo, may be recorded on the card-minding point of sale station. However, if a licensed authorized organization utilizes a customer account on a card-minding system, that organization must record all sales of disposable cards, instant bingo pull-tab tickets and event bingo pull-tab tickets and all bingo prizes awarded, including both regular bingo and pull-tab bingo, on the card-minding system point of sale. Disposable cards, instant bingo pull-tab tickets and event bingo pull-tab tickets sales and bingo prizes awarded may be recorded at the end of the occasion.

(g) Each licensed authorized organization purchasing, leasing, or otherwise utilizing a card-minding system must maintain a log or other records showing the following:

(1) the date the card-minding system was installed or removed; and

(2) the name and license number of the distributor from which the card-minding system was purchased, leased or otherwise obtained.

(h) If multiple licensed authorized organizations hold an interest in a card-minding system, a single record identifying each licensed authorized organization should be retained on the premises where the card-minding system is utilized.

(i) The licensed authorized organization must retain all records, reports, and receipts relating to the card-minding system's transactions, maintenance, and repairs for a period of 48 months for examination by the Commission. Such records shall be kept on the premises where the licensed authorized organization is licensed to conduct bingo, or at a location designated in writing to the Commission by the licensed authorized organization.

(j) All card-minding devices must be loaded or enabled for play on the premises where the game will be played.

(k) After the last game of the bingo occasion has been completed, the licensed authorized organization shall print an occasion report from the site system.

(l) The bingo player must be physically present during the game on the premises where the game is actually conducted.

(m) A licensed authorized organization may not add to or remove any software program related to the conduct of bingo to an approved card-minding system. If the Commission detects or discovers a card-minding system at a bingo premises that is using components or software that were not approved by the Commission as required, the card-minding system is deemed to have an unauthorized modification.

(n) No licensed authorized organization may display, use, or otherwise furnish a card-minding device which has in any manner been tampered with, or which otherwise may deceive the player or affect a player's chances of winning.

(o) At the time a player establishes a customer account, the licensed authorized organization must notify the player that any unclaimed balances in the customer account at the end of the occasion will be retained by the organization. Information regarding the retention by the licensed authorized organization of the unclaimed balances in a customer account at the end of an occasion must be included in the information the organization must provide to its players pursuant to §402.200 of this chapter. Any unclaimed balances retained by the organization under this subsection shall be considered to be funds derived from the conduct of bingo, deposited into the organization's bingo account, and reported as other income. However, any unclaimed balances deposited into the

organization's bingo account are restricted to the organization's charitable purposes, as provided by Texas Occupations Code §2001.453(2) and §2001.454.

(1) For a licensed authorized organization that conducts bingo through a unit created and operated under Texas Occupations Code Chapter 2001, Subchapter I-1, any balances on a customer account may be used by the customer for any bingo occasion conducted on the same day of any of the organizations in the unit on the premises specified in their bingo licenses.

(2) For a licensed authorized organization that conducts bingo on consecutive occasions within one 24-hour period, any balances on a customer account may be used by the customer during either occasion.

(p) A licensed authorized organization must comply with the requirements in §402.200(b)(6) of this chapter regarding all bingo equipment malfunctions, including customer accounts on a card-minding system.

(q) Each licensed authorized organization must ensure that the card-minding system records the actual selling price of each card-minding device and electronic bingo card sold.

#### §402.326. Card-Minding Systems—Distributor Requirements.

(a) Installation. Each distributor that leases, sells, or otherwise furnishes a card-minding system shall install the system based on the manufacturer's approval letter for use in Texas. Each system shall be installed with:

(1) a point of sale, caller station, verifier, and all other software components of the site system as listed in the approval letter;

(2) the software settings as established in the approval letter;

(3) all of the manufacturer requirements and restrictions in place; and

(4) internet connectivity.

(b) Before initial use by a licensed authorized organization, each distributor that leases, sells, or otherwise furnishes a card-minding system must provide notice to the Commission in writing on a form prescribed by the Commission, or electronically in a format prescribed by the Commission, that includes the following information:

(1) the modem number or IP address and protocol for remote access;

(2) total number of card-minding devices installed at the bingo premises;

(3) the name of the bingo premises, physical address, telephone number, and licensed commercial lessor's taxpayer identification number, if applicable, where the card-minding system is located;

(4) the expected startup date for use of the card-minding system by the licensed authorized organization;

(5) the name and taxpayer identification number of the licensed authorized organization to whom the card-minding system was sold, leased, or otherwise furnished;

(6) the name and taxpayer identification number of the distributor from whom the card-minding system was leased, purchased, or otherwise obtained;

(7) the name and taxpayer identification number of the manufacturer, model and version number of the card-minding system; and

(8) a certification statement from the manufacturer that the remote connectivity is operating properly.

(c) If a card-minding device is to be used at more than one bingo premises, each bingo premise must have its own separate site system.

(d) Before the complete removal or hardware up-grade of any card-minding system, each distributor must supply one copy of the data files to each licensed authorized organization that utilized the card-minding system and maintain one additional copy for a period of 48 months.

(e) A distributor selling, leasing, or otherwise providing card-minding systems to a licensed authorized organization or another licensed distributor must provide the licensed authorized organization or licensed distributor with an invoice that contains, at a minimum, the following information and must maintain copies of the invoice or documentation for a period of 48 months:

(1) the invoice number;

(2) the date of sale or lease period covered by the invoice;

(3) the manufacturer's name;

(4) the name and version number of the card-minding system;

(5) the quantity of card-minding devices sold or leased; and

(6) the total invoice amount.

(f) The distributor shall serve as the initial contact for the licensed authorized organization with respect to requests for installation, service, maintenance, or repair of card-minding devices and site systems, and for the ordering of the electronic facsimiles of bingo cards to be downloaded to the organization's site system, if applicable. The distributor may, as needed, enlist the aid of the manufacturer in providing service, repair, or maintenance of the card-minding devices or site system.

(g) A distributor may not add to nor remove any software programs related to the conduct of bingo to an approved card-minding system. If the Commission detects or discovers a card-minding system at a bingo premises that is using components or software that were required to have been

approved by the Commission but have not been approved, the card-minding system is deemed to have an unauthorized modification.

(h) Upon the Commission's notification to the manufacturer, the manufacturer must immediately disable the system. A distributor may not display, use, or otherwise furnish a card-minding device which has in any manner been tampered with, or which otherwise may deceive the player or affect a player's chances of winning.

#### §402.334. Shutter Card Bingo Systems – Approval of Shutter Card Bingo Systems.

(a) A shutter card bingo system must not be sold, leased, or otherwise furnished to any person for use in the conduct of bingo until it has first been tested and certified as compliant with the standards in this subchapter by an independent testing facility or the Commission's own testing lab, as applicable. The shutter card bingo system shall be submitted for testing at the manufacturer's expense. The testing facility should be required to ensure that the shutter card bingo system conforms to the restrictions and conditions set forth in these standards. The approval process is set forth in subsections (b)-(e) of this section.

##### (b) Utilizing an Independent Testing Facility:

(1) Manufacturer submits system to lab with letter outlining the shutter card bingo system to be tested for approval in Texas;

(2) Lab performs validation testing to ensure compliance with the Commission's requirements. Testing may include functional testing and/or modification testing, if applicable;

(3) Lab creates certification report which includes file verification methodology, software/firmware signatures (checksum), and testing results;

(4) Manufacturer submits approval request with certification report to the Commission;



1 (5) Once the Commission has received the certification report from the independent testing  
2 facility, the Commission may request a demonstration of the product; and

3 (6) The Commission shall either approve or disapprove the submission based on the test  
4 results and inform the manufacturer and lab of the results within thirty (30) calendar days of receipt  
5 of the test results.

6 (c) After the Commission approves a shutter card bingo system, the manufacturer shall notify the  
7 Commission of the date, time and place of the first installation of the system so that a Commission  
8 representative may observe and review the shutter card bingo system.

9 (d) Checksum or digital signatures will be obtained from the proprietary software submitted for  
10 testing to be used to verify that proprietary software at playing locations is the same as the software  
11 that was approved. The manufacturer shall provide any software necessary to view the checksum  
12 or digital signatures.

13 (e) The decision by the director to approve or disapprove any component of a shutter card bingo  
14 is administratively final.

15 (f) The manufacturer shall be responsible for the costs related to the testing of shutter card bingo  
16 system to include the fees charged by independent testing facilities.

17 (g) The manufacturer shall be responsible for the travel costs incurred by the Commission to audit  
18 the initial installation of a shutter card bingo system in the state of Texas.

19 (h) Any subsequent changes or modifications to an approved shutter card bingo system require  
20 compliance with this section and must be re-submitted to the Commission for approval prior to  
21 use.

22 §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.

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. Failure to respond within this timeframe will result in the application  
4 being deemed incomplete and withdrawn. The application and any submitted documentation will  
5 not be returned.

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

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

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

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

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.

1 (l) Administrative Hold. A licensed authorized organization or commercial lessor, other than an  
2 association of licensed authorized organizations, may request to place its regular license in  
3 administrative hold at any time.

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

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

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

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

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

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

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

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

22 (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-regular 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 two years  
9 unless revoked or suspended by the Commission.

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

12 (b) General.

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

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

19 (3) Display. A licensed authorized organization must conspicuously display an issued  
20 license during a temporary occasion at the premises.

21 (4) Voluntary surrender of regular license.

22 (A) An authorized organization that no longer holds a regular license to conduct  
23 bingo may conduct any remaining designated temporary occasions so long as the total number of



occasions does not exceed twelve (12) per calendar year. If more than twelve (12) previously specified occasions remain, the licensed authorized organization must provide to the Commission written notification of no more than twelve (12) 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 that have not been designated within ten days of surrender.

(B) If the Commission denies or revokes a regular license by final and unappealable order, any temporary license held by the regular license holder 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) Subject to the other provisions of this chapter, a regular license holder shall be issued forty-eight (48) temporary licenses for each 12-month period that ends on the anniversary of the date the license was issued or renewed. Any unused temporary licenses will expire on the anniversary of the date the temporary licenses were issued.

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

(3) Before using a temporary license, the regular license holder must notify the Commission of the date and time and location of the bingo occasion for which 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).

(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).

(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 an Application for Temporary Bingo Occasions for Non-Regular Organization, FORMID 20.

(2) Organizations who have held a temporary license occasion in the past three years may submit an Application for a Temporary Bingo Occasions for Non-Regular Organization, FORMID 19, to apply for a temporary license.

(3) Non-regular license holders may not receive more than twelve (12) temporary licenses in a calendar year.

§402.402. Registry of Bingo Workers.

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

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

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

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

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

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

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

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

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

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

10 (b) Who must be listed on the Registry of Approved Bingo Workers. Any individual who carries  
11 out or performs the functions of a caller, cashier, manager, operator, usher, salesperson,  
12 bookkeeper, or bingo chairperson as defined in subsection (a) of this section must be listed on the  
13 Registry of Approved Bingo Workers prior to being involved in the conduct of bingo.

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

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

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

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

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

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

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

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

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

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

15 (3) be determined by the Commission to not be ineligible under Texas Occupations Code,  
16 §2001.105(a)(6) or the Commission's Rules.

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

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

(k) Identification Card for Approved Bingo Worker.

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

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

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

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

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

(l) How to Obtain Additional Approved Identification Cards.

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

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

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

9     (m) A licensed authorized organization which is reporting conduct where there is a substantial  
10    basis for believing that the conduct would constitute grounds for removal or refusal to list on the  
11    registry shall make the report in writing to: Bingo Registry, Texas Lottery Commission, P.O. Box  
12    16630, Austin, Texas 78761-6630.

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

16    (o) If the Commission proposes to refuse to add or proposes to remove the individual from the  
17    Registry of Approved Bingo Workers consistent with Texas Occupations Code §2001.313, the  
18    Commission will give notice of the proposed action as provided by Government Code, Chapter  
19    2001.

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

1 (q) An individual who has been denied or removed from the registry because of a conviction for  
2 an offense listed under Occupations Code §2001.105(b) will not be eligible to reapply to be listed.

3 An individual who has been denied or removed from the registry because of a disqualifying  
4 criminal conviction not listed under Occupations Code §2001.105(b) may reapply to be listed no  
5 earlier than five years after the commission of the offense, or as otherwise allowed under the  
6 Commission's Rules.

7 (r) A provisional employee must:

8 (1) immediately stop working:

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

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

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

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

20 (s) A licensed authorized organization who employs a provisional employee must maintain a copy  
21 of the registry applicant's completed Texas Application for Registry of Approved Bingo Workers  
22 form submitted to the Commission until the individual is listed on the registry or the licensed  
23 authorized organization is notified that the individual is not eligible to be listed. Payment for the



1 employment of a provisional employee as outlined in subsection (a)(8) of this section is an  
2 authorized bingo expense; however, payment for non-registered workers is not an authorized bingo  
3 expense.

#### 4 §402.404. License Classes and Fees.

##### 5 (a) Definitions.

6 (1) License period--For purposes of Texas Occupations Code §2001.158, the term "license  
7 period" means the eight (8) full calendar quarters immediately preceding the license end date.

##### 8 (2) License Classes and Applicable Fee Amount:

###### 9 (A) The annual fee for a commercial lessor license shall be as follows:

10 (i) Class A (annual gross rentals from licensed organizations of not more  
11 than \$12,000) - \$132;

12 (ii) Class B (annual gross rentals from licensed organizations of more than  
13 \$12,000 but not more than \$20,000) - \$264;

14 (iii) Class C (annual gross rentals from licensed organizations of more than  
15 \$20,000 but not more than \$30,000) - \$396;

16 (iv) Class D (annual gross rentals from licensed organizations of more than  
17 \$30,000 but not more than \$40,000) - \$528;

18 (v) Class E (annual gross rentals from licensed organizations of more than  
19 \$40,000 but not more than \$50,000) - \$792;

20 (vi) Class F (annual gross rentals from licensed organizations of more than  
21 \$50,000 but not more than \$60,000) - \$1,188;

22 (vii) Class G (annual gross rentals from licensed organizations of more than  
23 \$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) Manufacturer's License. The annual fee for a manufacturer's license shall be \$3,000.

(C) 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.

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

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

10 (f) License Class Recalculation.

11 (1) For the purpose of determining the license class recalculation for a license to conduct  
12 bingo or license to lease bingo premises, the annual gross receipts or gross rental income, as  
13 applicable, shall be based on the four consecutive quarterly returns due immediately prior to the  
14 license expiration date.

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

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

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

5 (5) License no longer exists.

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

10 (B) If an organization ceases to be licensed for whatever reason, all gross receipts  
11 or gross rental income collected (from the period after the last quarterly return used to recalculate  
12 the license class for the prior year) is used to recalculate the final license class, and if appropriate,  
13 any fee due. If the organization fails to file a return for any required period(s), an estimated return  
14 will be used. The organization shall submit any balance due after license class recalculation.

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

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

22 (g) Overpayment of License Fee.

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

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

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

18 (h) Refunds.

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

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

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

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

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

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

11 (4) Upon the receipt and review of a timely and sufficient refund request, the Commission  
12 may either deny the refund request or certify to the Comptroller of Public Accounts that a refund  
13 is warranted. Pursuant to Government Code §403.077, if the Commission certifies to the  
14 Comptroller of Public Accounts that a refund is warranted, the ultimate decision on whether to  
15 grant the refund will still be made by the Comptroller of Public Accounts.

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

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

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

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

4 (j) Temporary Authorization to Conduct Bingo.

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

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

10 §402.411. License Renewal.

11 (a) Any license issued under the Bingo Enabling Act expires one calendar year or two calendar  
12 years from the first date of the license period, as specified on the license.

13 (b) In order to renew a license issued under the Bingo Enabling Act, a licensee must timely file an  
14 application for renewal with the Commission. The renewal application must be on a form  
15 prescribed by the Commission. The Commission will not approve a renewal application until the  
16 application is complete and the licensee submits the requisite fee pursuant to §402.404 of this title  
17 (relating to License Classes and Fees). A licensee is solely responsible for the timely filing of an  
18 application for renewal of its regular license.

19 (c) The Commission may notify licensees regarding the expiration of their license(s) and the  
20 potential for renewal. Failure of the licensee to receive the renewal notice(s) provided by the  
21 Commission is not a mitigating circumstance for untimely filing of a renewal application.

22 (d) Notwithstanding subsection (b) of this section, if a renewal application is not timely filed, a  
23 licensee may renew its license by filing a complete application for renewal with the Commission



and, if applicable, submitting the requisite license fee and late license renewal fee. The late license renewal fee is based on the estimated license fee for the renewal period. Penalty amounts are calculated as follows:

Figure: 16 TAC §402.411(d)

Number of Days Late	Percentage of Estimated License Fee
1-14	10%
15-28	20%
29-42	30%
43-56	40%
57-60	50%

(e) Any required late license renewal fee is due within 14 calendar days of the date of the written notification by the Commission of the amount due.

(f) The Commission will not issue a temporary license to a licensed authorized organization that has not filed its renewal application.

(g) A late license renewal fee is not refundable.

(h) License renewal applications received more than 60 days after the license expiration date will be returned unprocessed by the Commission to the sender.

(i) To be complete, an application for renewal must contain all information that is required to be provided in or with the initial license application, as well as any other information required by the Commission.

(1) All information submitted to the Commission must be legible, correct, and complete.

(2) If any information previously submitted to the Commission with the licensee's initial license application or a previous renewal application has not changed since the information was last submitted to the Commission, the renewal applicant need not provide that information again.

1 The applicant must certify on the renewal application that no changes have been made to the  
2 specific information since it was last submitted to the Commission.

3 (j) Unless otherwise provided by law or rule, the general licensing provisions in §402.400 of this  
4 title (relating to General Licensing Provisions) shall govern the license renewal process, including  
5 the submission and review of the renewal application, as if the renewal application was an initial  
6 license application.

7 (k) Except as authorized by the Charitable Bingo Operations Director, or his or her designee,  
8 license renewal applications received by the Commission more than 60 days prior to the current  
9 license expiration date will be returned unprocessed by the Commission to the sender.

10 §402.443. Transfer of a Grandfathered Lessor's Commercial Lessor License.

11 (a) "Grandfathered Lessor's License" means a commercial lessor license that was in effect on June  
12 10, 1989, and that has been in effect continuously since that date.

13 (b) The Commission's approval to transfer a Grandfathered Lessor's License from a current license  
14 holder to a new license holder does not transfer the grandfathered leasing rights. The new license  
15 holder's authority under the transferred license shall be subject to the eligibility requirements set  
16 forth in Bingo Enabling Act §2001.152(a) (and any successor statute thereto).

17 (c) A change in the name or the ownership of a legal entity that holds a grandfathered license does  
18 not constitute a transfer of the license if the entity's Comptroller's Taxpayer Number remains the  
19 same.

20 §402.500. General Records Requirements.

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

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

(c) Upon request of the Commission, a licensee shall provide any information required to be maintained by the Bingo Enabling Act and the Charitable Bingo Administrative Rules. Except in cases of emergency, the Commission shall provide reasonable advance notice of the specific information and records needed and the time and location at which they must be made available.

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

(e) Bingo uses cash basis accounting, which records revenue and expenses when the cash related to those transactions is actually received or dispensed.

#### §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 include:

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

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

3 (6) A licensed authorized organization must maintain documentation for all charitable  
4 distributions used for its exempt purposes. Documentation includes:

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

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

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

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

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

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

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

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

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

9 §402.600. Bingo Reports and Payments.

10 (a) On or before the 25th of the month prior to the end of the calendar quarter, the Commission  
11 may provide reminder notifications to licensees regarding upcoming filing deadlines.

12 (b) Quarterly reports, supplements, and payments due to be submitted on a date occurring on a  
13 Saturday, Sunday, or legal holiday will be due the next business day. The report will be deemed  
14 filed in accordance with Rule §402.105.

15 (c) Signature provisions.

16 (1) For the valid filing of paper quarterly reports and supplements, the bingo chairperson,  
17 an officer, director, or bookkeeper must sign the report. By signing a report, the bingo chairperson,  
18 officer, director, or bookkeeper declares that the information in the report is true and correct to the  
19 best of their knowledge and belief.

20 (2) For the valid filing of electronic quarterly reports and supplements, the signature will  
21 be the email address of the person sending the quarterly report.

22 (d) Quarterly Report for information relating to the conduct of bingo games.

1 (1) An authorized organization holding a regular license, temporary license, or a temporary  
2 authorization to conduct bingo must file on a form prescribed by the Commission or in an  
3 electronic format prescribed by the Commission a quarterly report for financial and statistical  
4 information relating to the conduct of bingo games. The report and supplements must be filed with  
5 the Commission on or before the 25th day of the month following the end of the calendar quarter  
6 even if there were no games conducted during that quarter. Failure to file a required report or  
7 supplement by the due date may result in an administrative penalty.

8 (2) The report and supplements must be filed under oath attesting to the information being  
9 true and correct. Each officer and director is responsible for knowing the contents of the report and  
10 supplements. The person signing the report must promptly provide a copy of the report and  
11 supplements to such officer and director upon his/her request.

12 (3) The Commission may deny a renewal application of an authorized organization holding  
13 a regular license or revoke a license of an authorized organization holding a regular license if the  
14 licensee remits to the Commission two insufficient checks for prize fees within four quarters.

15 (e) Quarterly report for information relating to the lease of bingo premises.

16 (1) A commercial lessor holding a license to lease bingo premises must file on a form  
17 prescribed by the Commission or in an electronic format prescribed by the Commission a quarterly  
18 report stating the rental income received. The report shall also include information regarding  
19 property taxes, insurance premiums, and utility expenses which are paid by the lessor, and  
20 reimbursed by an authorized organization or unit to the lessor. The report and supplements must  
21 be filed with the Commission on or before the 25th day of the month following the end of the  
22 calendar quarter regardless of whether income was received. Failure to file a required report or  
23 supplement by the due date may result in an administrative penalty.

1           (2) The report and supplements must be filed under oath attesting to the information being  
2 true and correct. Each officer and director is responsible for knowing the contents of the report and  
3 supplements. The person signing the report must promptly provide a copy of the report and  
4 supplements to such officer and director upon his/her request.

5 (f) Quarterly report for information relating to a manufacturer or distributor license.

6           (1) A manufacturer or distributor shall file a report on a form prescribed by the Commission  
7 or in an electronic format prescribed by the Commission, reflecting each sale or lease of bingo  
8 equipment, and the total sales of cards, sheets, pads and instant bingo to a person or organization  
9 in this state or for use in this state.

10           (2) The report and supplements shall be filed with regard to each calendar quarter and is  
11 due on or before the last day of the month following the end of the quarter.

12           (3) The report and supplements must be filed under oath attesting to the information being  
13 true and correct.

14           (4) The Commission will deny a renewal application or revoke a license of a manufacturer  
15 or distributor where the licensee has failed to timely file with the Commission the required reports  
16 or supplements three times within four consecutive quarters.

17           (5) Failure to file a required report or supplement by the due date may result in an  
18 administrative penalty.

19 (g) A manufacturer or distributor shall use the eleven digit taxpayer number on file with the  
20 Commission when submitting information relating to the sale or lease of bingo equipment, sales  
21 of cards, sheets, pads and instant bingo. If six or more taxpayer numbers are incorrect on the report,  
22 the Commission will return the report to the manufacturer or distributor for correction. The  
23 licensee has thirty (30) calendar days to correct the taxpayer numbers and return the corrected



1 report to the Commission. If five or less taxpayer numbers are incorrect, the Commission will  
2 notify the licensee of the taxpayer numbers that were changed and the correct numbers to be used  
3 in the future.

4 (h) Failure to receive forms. The failure of a licensee to receive forms from the Commission does  
5 not relieve the licensee from the requirement of filing reports and remitting prize fees as applicable  
6 on a timely basis.

7 (i) Incorrect calculation of "Texas Bingo Conductor's Quarterly Report". If the total receipts and  
8 total expenses do not total correctly, the Commission will mail the conductor a letter, with a copy  
9 of the adjusted report, stating an adjustment has been made to the quarterly report. If the adjusted  
10 quarterly report is correct, the licensee will maintain the copy in its file and no further action is  
11 required. If the licensee does not agree with the adjusted quarterly report, an amended quarterly  
12 report reflecting the correct data must be submitted to the Commission by the licensee.

13 (j) The licensed authorized organization must resolve or correct quarterly report exceptions within  
14 thirty (30) calendar days from the date of notice.

15 (k) The Commission will deny a renewal application for a license to conduct bingo or a license to  
16 lease bingo premises or revoke a license to conduct bingo or a license to lease bingo premises if  
17 the licensee has failed to pay timely the prize fee due three times within four consecutive quarters  
18 and a final jeopardy determination has been made by the Commission for three of the four  
19 consecutive quarters in accordance with Occupations Code §2001.510 and §2001.511.

20 (l) Extensions.

21 (1) Filing extension because of natural disaster.

22 (A) The Director will grant to a licensee who has been identified as a victim of a  
23 natural disaster an extension of not more than 90 days to file a quarterly report and supplements

1 or pay prize fees provided the licensee has filed a timely request for an extension. In determining  
2 the natural disaster victims, the Commission shall recognize the counties that have been identified  
3 by the Office of the Governor or the Comptroller of Public Accounts.

4 (B) The person owing the quarterly report, supplements, or prize fees must file a  
5 written request for an extension at any time before the expiration of five working days after the  
6 original due date in order to obtain an extension.

7 (C) If an extension under this paragraph is granted, interest on the unpaid prize fee  
8 does not begin to accrue until the day after the day on which the extension expires, and prize fees  
9 and penalties are assessed and determined as though the last day of the extension were the original  
10 due date.

11 (2) Filing extension for reasons other than natural disaster.

12 (A) The Director may grant an extension of not more than thirty (30) days for the  
13 filing of a quarterly report and supplements. Before a request for extension may be granted, a  
14 written request setting out the reasons or grounds for an extension and 90% of the prize fees  
15 estimated to be due must be received by the Commission postmarked on or before the due date of  
16 the quarterly report.

17 (B) The granting of a request is within the discretion of the Director and the licensee  
18 will be notified in five working days of the request of the decision of the Director.

19 (C) If the request is denied, there will be no penalty assessed if the return is filed  
20 and remaining prize fee is paid not later than ten days from the date of the denial of the request of  
21 the extension.

22 (3) A request postmarked after the due date for the filing of a request will not be considered.

(m) Rounding. Quarterly report entries must be rounded to whole dollar amounts, where indicated. To round off amounts to the nearest whole dollar, drop amounts under 50 cents and increase amounts from 50 - 99 cents to the next dollar. A quarterly report will not be considered inaccurate based on rounding numbers provided that such rounding does not result in more than a \$5.00 variance when all entries are summed up.

§402.601. Interest on Delinquent Tax.

(a) Interest on Delinquent Tax.

(1) The yearly interest rate on delinquent prize fees 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 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 accessible for viewing in the Bingo Service Portal or through the agency's system for any inquiries regarding the current filing quarter.

1 A credit taken by a licensed authorized organization or lessor on the quarterly report does not  
2 accrue interest.

3 (3) For a refund processed for a fee due, the rate of interest is the rate set out in subsection  
4 (a)(1) of this section.

5 (4) A warrant for interest payments shall be drawn against the fund or account into which  
6 the overpaid prize fee was deposited.

7 §402.602. Settlement of Prize Fees, Penalty and/or Interest.

8 Settlement of prize fees, penalty or interest on an inactive account. The Commission may settle a  
9 claim for prize fees, penalty, or interest if the total cost of collection, as determined by the  
10 Commission, would exceed the total amount due.

11 §402.702. Disqualifying Convictions.

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

19 (b) If any of the following persons have been convicted of a gambling or gambling-related offense,  
20 or criminal fraud, the applicant for a license or a listing in the registry of approved bingo workers  
21 will not be eligible for a new or renewal license or registry listing, as applicable: the applicant; or  
22 for an applicant for a license, any person whose conviction of any such offense would render the  
23 applicant ineligible under the eligibility standards for the particular type of license (i.e.,

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

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

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

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

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

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

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

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

20 (2) An offense under Article 42A.054 of the Code of Criminal Procedure; or

21 (3) A sexually violent offense, as defined by Article 62.001 of the Code of Criminal  
22 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 purposes of applying Chapter 53, the Commission may 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;

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

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

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

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

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

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

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

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

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

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

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

17 (7) Penal Code, Chapter 71, Organized Crime;

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

20 (9) Any offense committed, including in another state or Federal jurisdiction involving  
21 substantially similar conduct as an offense in the applicable sections of Penal Code, Chapters 30,  
22 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;



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

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

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

7 (i) Upon notification of the Commission's intent to deny a new or renewal application or registry  
8 listing, an applicant may provide documentation of mitigating factors that the applicant would like  
9 the Commission to consider regarding its application. Such documentation must be provided to  
10 the Commission no later than 30 days after the Commission provides notice to an applicant of a  
11 denial, unless the deadline is extended in writing or through e-mail by authorized Commission  
12 staff.

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

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

18 (l) The Director shall issue guidelines relating to the practice of the Commission under Chapter  
19 53, Occupations Code, and this section, and may issue amendments to the guidelines as the  
20 Director deems appropriate, consistent with §53.025.

21 §402.703. Audit Policy.

22 (a) Definitions.

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

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

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

10 (b) Audit Determination.

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

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

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

21 (c) Notification.

22 (1) If a licensee is selected for an audit pursuant to subsection (b) of this section, a  
23 Commission auditor will so notify that licensee's bingo chairperson, director, business contact,

1 officer, unit manager, or designated agent in writing. The written notification constitutes the  
2 beginning of the audit.

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

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

12 (d) Entrance Conference.

13 (1) Within ten (10) calendar days of sending the written notification under subsection (c)  
14 of this section, an auditor will attempt to contact the selected licensee's bingo chairperson, director,  
15 business contact, officer, unit manager, or designated agent to schedule an audit entrance  
16 conference. Unless otherwise provided by the Commission, the audit entrance conference will be  
17 held within fourteen (14) calendar days from the auditors contact with the licensee. The licensee  
18 may submit a written request to the Commission to delay the audit entrance conference. The  
19 written request must include the reasons for the requested delay. After reviewing a properly  
20 submitted written request to delay, the Commission may either approve or deny the request or  
21 notify the licensee that additional information is needed before a decision is made. If the  
22 Commission and licensee are unable to agree on the date, time, and place of the audit entrance  
23 conference, or if the Commission auditor is unable to contact the licensee's bingo chairperson,

1 director, business contact, officer, unit manager, or designated agent, the auditor shall schedule the  
2 audit entrance conference and send the licensee written notice of that fact at least ten (10) calendar  
3 days prior to the scheduled audit entrance conference.

4 (2) The purpose of an audit entrance conference is to allow the auditor(s) to meet with the  
5 selected licensee's bingo chairperson, director, business contact, officer, unit manager, or  
6 designated agent to collect any records or other information identified in the written notification  
7 under subsection (c) of this section, to discuss the audit process, and to answer any questions the  
8 licensee may have regarding the audit. There is no standard timeline by which an audit will be  
9 completed, but an audit must be completed within one year from the date of the entrance  
10 conference unless the Director extends the time period and notifies the licensee of the extension.

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

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

22 (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.

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

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

11 §402.706. Schedule of Sanctions.

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

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

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

Figure: 16 TAC §402.706(c)

### Standard Administrative Penalty Chart

#### Category 1

**\$250 to \$1,000 for the 1st offense, except a 1st offense for Violation No. 6 involving gambling devices may result in up to \$1000 administrative penalty and/or license suspension, revocation or denial, or registry removal or denial**

**\$250 to \$1,000 and/or license suspension, revocation or denial, or registry removal or denial for the 2nd offense**

No.	Violation
1	A person knowingly participated in the award of a prize to a bingo player in a manner that disregarded the random selection of numbers or symbols.
2	A person made a false statement in an application for a license.
3	A person falsified or made false entries in books and records.
4	A person conducted, promoted, or administered bingo without a license.
5	The licensee or a person designated as an agent for a unit failed to timely produce for inspection or audit any book, record, document, or other form of information requested by the Commission.

6	A person conducted or allowed a game of chance at a bingo premises during a bingo occasion, except as permitted under Occupations Code §2001.416 and 16 TAC §402.211.
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1

2 **Category 2**

3 **\$100 to \$600 for the 1st offense**

4 **\$100 to \$800 for the 2nd offense**

5 **\$100 to \$1,000 and/or license suspension, revocation or denial, or registry removal or denial**  
6 **for the 3rd offense**

7

No.	Violation
7	The organization conducted bingo outside of the licensed time.
8	The organization sold bingo cards, bingo card minders, or pull-tab bingo tickets at an unauthorized time.
9	The organization conducted bingo at an unauthorized location.
10	The organization that is a member of a unit did not conduct its bingo games separately from the bingo games of the other members of the unit.
11	The unit with an agent designated under Section 2001.438(b) failed to immediately notify the Commission of any change in the designated agent.
12	The organization allowed a person other than a bona fide member of the licensed authorized organization to conduct, promote, or administer, or assist in conducting, promoting, or administering, bingo.
13	The organization failed to have an authorized operator present at the bingo occasion.
14	A person not listed on the registry of approved bingo workers acted as an operator, manager, cashier, usher, caller, or salesperson for an organization.



<b>15</b>	The organization allowed a person(s) under the age of 18 to conduct or assist in the conduct of bingo.
<b>16</b>	The organization or unit failed to comply with the charitable distribution requirement.
<b>17</b>	The organization obtained by purchase or other manner bingo equipment, devices or supplies from a person other than a licensed distributor (except as provided in Section 2001.257(b)).

1

2 **Category 3**

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

4 **\$100 to \$600 for the 2nd offense**

5 **\$100 to \$800 for the 3rd offense (Violation Nos. 18, 22, 23 – 28)**

6 **\$100 to \$1,000 and/or license suspension, revocation or denial, or registry removal or denial**  
7 **for the 3rd offense (Violation Nos. 19, 20, 21, & 24)**

8

<b>No.</b>	<b>Violation</b>
<b>18</b>	The licensee failed to report to the Commission in writing within ten (10) working days of the date of any change respecting any facts set forth in the application.
<b>19</b>	The licensee failed to respond, or timely respond, in writing to all relevant audit findings and recommendations in the draft audit report presented at the exit conference.
<b>20</b>	The organization failed to withhold prize fees.
<b>21</b>	The organization or unit failed to deposit in the bingo account all funds derived from the conduct of bingo, less the amount awarded as cash prizes.
<b>22</b>	The organization incurred or paid items of expense in connection with the conduct of a game of bingo that were not reasonable or necessary to conduct bingo.

23	Proceeds given to a person for a charitable purpose were used by the donee to pay for services rendered or materials purchased in connection with the conduct of bingo by the donor organization.
24	The net proceeds of any game of bingo and of any rental of premises for bingo were not used exclusively for charitable purpose or were used by the donee for an activity that would not constitute a charitable purpose, if the activity were conducted by the donor organization.
25	A person failed to maintain records that fully and truly record all transactions connected with the conduct of Bingo, the leasing of premises to be used for the conduct of bingo, or the manufacture, sale, or distribution of bingo supplies or equipment.
26	A commercial lessor licensed to conduct bingo, did not properly deposit in its bingo checking account all rental payments from authorized organizations conducting bingo at the location of the lessor.
27	Rent for premises used for the conduct of bingo that was paid to the lessor was not paid in a lump sum that included all expenses authorized by the Bingo Enabling Act, Section 2001.458.
28	For organizations or units, deposits were made later than the end of the third business day following the day of the bingo occasion on which the receipts were obtained.

1

2 **Category 4**

3 **\$0 (Warning) to \$300 for the 1st offense**

4 **\$100 to \$450 for the 2nd offense**

5 **\$100 to \$600 for the 3rd offense**

No.	Violation
29	The organization or unit deposited funds, other than from the conduct of bingo, in the bingo account.

<b>30</b>	The organization failed to clearly identify the conductor, by name exactly as it is shown on the license, on an advertisement or promotion of a bingo occasion.
<b>31</b>	Check(s) or slip(s) were made payable to 'cash', 'bearer', or to a fictitious payee.
<b>32</b>	Checks did not contain the required information.

1

2 **Category 5**

3 **\$0 (Warning) to \$200 for the 1st offense**

4 **\$100 to \$300 for the 2nd offense**

5 **\$100 to \$400 for the 3rd offense**

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

6

7 **Category 6**

8 **\$0 (Warning) to \$100 for the 1st offense**

9 **\$50 to \$150 for the 2nd offense**

10 **\$50 to \$200 for the 3rd offense**

<b>No.</b>	<b>Violation</b>
<b>35</b>	The organization failed to withdraw funds from the bingo account by preprinted, consecutively numbered checks or withdrawal slips.

<b>36</b>	The organization failed to keep and account for all checks, including voided checks and slips.
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2 **Category 7**

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

4 **\$50 for the 2nd offense**

5 **\$50 to \$1,000 for the 3rd offense**

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

6

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

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

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

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

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

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

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

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

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

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

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

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

repeat violations. A repeat violation of a previous violation means that the violations in both instances are the same.

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

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

(2) history of previous violations which includes:

(A) the number of previous violations; and

(B) the number of repeated violations;

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

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

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

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

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

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

(D) risk to the public or state;

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

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

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

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

#### §402.707. Expedited Administrative Penalty Guidelines.

(a) The purpose of this subchapter is to provide an alternative disciplinary procedure for certain violations of the Bingo Enabling Act (Act) and the Charitable Bingo Administrative Rules (Rules) in which the Director of the Charitable Bingo Operations Division seeks to facilitate expeditious resolution of cases and encourage settlements.

(b) The list of statutory violations in the Expedited Administrative Penalty Chart is not an exclusive list of violations that may be expedited. The scope of this guideline will be limited to violations of the Bingo Enabling Act and/or the Charitable Bingo Administrative Rules that are identified by the Director or their designee.

(c) Upon completion of an examination, inspection, audit, or investigation, and after which both parties have agreed that an alleged violation of the Bingo Enabling Act or the Charitable Bingo Administrative Rules can be resolved expeditiously, the Director or their designee may cause a Notice of Administrative Violation and Settlement Agreement (NAVSA) to be issued to an authorized representative for the respondent.

(d) The NAVSA shall include the following information:

(1) date of the notice;

(2) names and addresses of both parties;

(3) a brief summary of the alleged violation;

(4) the dollar amount of the administrative penalty recommended by the director or his or her designee;

(5) a brief explanation of the additional conditions required to ensure future compliance with the Act or Rules alleged to be violated;

(6) notice that an investigation, including an examination or audit, was conducted which alleges a violation was committed;

(7) a statement signed by an authorized representative for the respondent indicating the respondent agrees to the terms of the settlement being offered;

(8) notice that if the person does not accept the settlement offered, they may request an informal dispute resolution conference in accordance with §402.708 of this chapter or a hearing on the occurrence of the violation, the amount of the penalty or both; and

(9) notice that if the person does not accept the settlement offered or request a hearing, the Commission may seek the maximum penalty authorized for the violation under the Bingo Enabling Act and the Charitable Bingo Administrative Rules, which may include revocation, suspension or denial of the person's license or worker registration, or application for a license or worker registration as applicable.

(e) The respondent shall have 20 calendar days from the date the respondent receives the NAVSA to accept the recommendation of the Director, including the recommended administrative penalty; or make a written request for a hearing on the determination. The respondent shall have 10 calendar days from the date the respondent receives the NAVSA to request an informal dispute resolution conference, which must occur within 20 calendar days of the respondent's receipt of the NAVSA. If notification of acceptance or the written request for a hearing is not made within 20 days, or if



an informal dispute resolution conference does not resolve the dispute, the Director shall cause a hearing to be set and give notice of the hearing to the respondent. The opportunity for an agreement in accordance with this subsection will expire.

(f) After the NAVSA is accepted and returned to the Commission, the NAVSA will be forwarded to the Director for final approval and a copy will be forwarded to the respondent along with the Order. The respondent will have 60 days from the date of the Order to pay the recommended administrative penalty. Failure to comply with the terms of this Agreement may result in the imposition of a more severe degree of penalty which may include the revocation, suspension, denial of the license or worker registration, or removal from the worker registry as applicable.

(g) If a person is charged with a repeat violation that may be expedited within 36 months (3 years) of the first violation, then the penalty for a repeat violation will be imposed according to the Expedited Administrative Penalty Chart for repeat violations.

Figure: 16 TAC §402.707(g)

Expedited Administrative Penalty Chart

Violation	Penalty
The organization conducted bingo outside of the licensed time.	1 <sup>st</sup> Offense - \$200 2 <sup>nd</sup> Offense - \$300 3 <sup>rd</sup> Offense - \$500
The organization sold pull-tab bingo tickets at an unauthorized time.	1 <sup>st</sup> Offense - \$200 2 <sup>nd</sup> Offense - \$300 3 <sup>rd</sup> Offense - \$500
The organization that is a member of a unit did not conduct its bingo games separately from the bingo games of the other members of the unit.	1 <sup>st</sup> Offense - Warn 2 <sup>nd</sup> Offense - \$300 3 <sup>rd</sup> Offense - \$500
The organization failed to have an authorized operator present at the bingo occasion.	1 <sup>st</sup> Offense - \$200 2 <sup>nd</sup> Offense - \$300 3 <sup>rd</sup> Offense - \$500
Prizes with an aggregate value of more than \$5,000.00 for bingo games other than pull-tab bingo and prizes of \$50 or less, as described in	1 <sup>st</sup> Offense - \$200 2 <sup>nd</sup> Offense - \$300 3 <sup>rd</sup> Offense - \$500

§2001.420(b)(2) of the Occupations Code, were offered or awarded for a single bingo occasion.	
The organization failed to prevent bingo workers from playing bingo.	1 <sup>st</sup> Offense - \$150 2 <sup>nd</sup> Offense - \$225 3 <sup>rd</sup> Offense - \$375
The organization offered or provided to a person the opportunity to play bingo without charge.	1 <sup>st</sup> Offense - \$150 2 <sup>nd</sup> Offense - \$225 3 <sup>rd</sup> Offense - \$375
The organization or lessor failed to conspicuously display the license issued at the place where the game was conducted at all times during the conduct of the game.	1 <sup>st</sup> Offense - \$100 2 <sup>nd</sup> Offense - \$150 3 <sup>rd</sup> Offense - \$250
The organization failed to have required information imprinted on each bingo gift certificate, specifically: the name and address of the licensed location(s) where the certificate may be redeemed for bingo paper, pull-tab bingo or card-minding devices; the monetary value of the certificate; the name of the licensed organization(s) authorized to accept the certificate; or the expiration date or blank space for the organization or unit to fill in an expiration date.	1 <sup>st</sup> Offense - \$50 2 <sup>nd</sup> Offense - \$75 3 <sup>rd</sup> Offense - \$125
A door prize with a value of more than \$250.00 was offered or awarded.	1 <sup>st</sup> Offense - \$50 2 <sup>nd</sup> Offense - \$75 3 <sup>rd</sup> Offense - \$125
The organization failed to conspicuously display during a bingo occasion a sign indicating the operator in charge, the sign contained letters less than one (1) inch in height, the sign failed to inform the players that they should direct any questions or complaints regarding the conduct of the bingo occasion to the operator listed on the sign, or the sign failed to state that if the player is not satisfied with the operators response that the player has the right to file a written formal complaint with the Commission.	1 <sup>st</sup> Offense - \$30 2 <sup>nd</sup> Offense - \$45 3 <sup>rd</sup> Offense - \$75
The organization failed to verify winning bingo cards by someone at another table or location other than the winners, or by an electronic verifier system, winning cards were not shown on a monitor visible to all players, or the disposable card(s) or electronic representation of the card, was not posted for inspection for at least 30 minutes after the completion of the last game of that organization's occasion.	1 <sup>st</sup> Offense - \$30 2 <sup>nd</sup> Offense - \$45 3 <sup>rd</sup> Offense - \$75

The organization failed to obtain, maintain, keep current and make available for review to any person upon request a copy of the Bingo Enabling Act and the Rules of the Commission.	1 <sup>st</sup> Offense - Warn 2 <sup>nd</sup> Offense - \$50 3 <sup>rd</sup> Offense - \$75
<b>Violations by a Worker</b>	
A person not listed on the registry of approved bingo workers acted as an operator, manager, cashier, usher, caller, or salesperson for an organization.	1 <sup>st</sup> Offense - Warn 2 <sup>nd</sup> Offense - \$45 3 <sup>rd</sup> Offense - \$75
A registered worker or operator for an organization did not wear, present, visibly display, or list the individuals name and unique registration number in a legible manner on his/her prescribed identification card, while on duty.	1 <sup>st</sup> Offense - Warn 2 <sup>nd</sup> Offense - \$20 3 <sup>rd</sup> Offense - \$35



a fully accredited library. A library that fails to meet more than one criterion is not eligible for conditional accreditation.

(b) The maximum length of time a library may be conditionally accredited is three years. A library that is still unable to meet an accreditation criterion at the end of the conditional accreditation period, whether it is the same or a new criterion, will not be accredited and must reapply for accreditation the following year.

(c) A public library actively seeking accreditation by securing the per capita support necessary for qualification may be conditionally accredited on the basis of the library's current operating budget rather than its expenditures of the preceding year.

(d) To be fully accredited, a library must meet all accreditation requirements in this subchapter by the end of the conditional accreditation period.

#### §1.81. Loss of Accreditation.

(a) Accreditation is conditioned on submission of the annual report required in §1.78 of this title (relating to Annual Report) and meeting the accreditation criteria established by this subchapter. If a library loses accreditation, the library will not be accredited for the next fiscal year and will not have access to certain agency services during that year.

(b) If the agency determines a library does not meet the criteria for accreditation at any time during the accreditation year, the agency will notify the library in writing of the potential loss of accreditation.

(c) A public library that does not submit an annual report by the established deadline will automatically lose accreditation for the upcoming state fiscal year.

(d) A public library that does not meet the minimum criteria for accreditation required by this subchapter and as documented on the annual report may lose accreditation.

(e) On notification of the potential loss of accreditation, the agency may allow the library a reasonable period of time to come into compliance and remain accredited. A library may also choose to be unaccredited or appeal the determination.

(f) If a library chooses to be unaccredited for the year in question but wants to be considered for accreditation in subsequent years, the library must continue to submit an annual report each year it is not accredited. The library may be re-accredited during the next annual report cycle if the library reports data showing that it meets all accreditation criteria by the prescribed deadline. A library that lacks only one criterion for accreditation may be eligible for a waiver as detailed in §1.79 of this title (relating to Emergency Waiver of Accreditation Criteria).

(g) A library must continue to submit an annual report to continue to receive minimum agency services, such as the agency's summer reading program and access to consulting services.

#### §1.82. Appeal of Accreditation Determination.

(a) A library that is not accredited or that loses accreditation may appeal the determination to the Library Systems Act Advisory Board (LSA Board).

(b) To appeal a determination regarding accreditation, a library must notify the agency of its intention to appeal. On notification of the intent to appeal, the agency will provide the library with information on the process and documentation needed.

(c) A formal appeal must include a letter of appeal to the director of the Library Development and Networking division providing

a detailed description of the accreditation issue and a proposed resolution and timeline. Appellants may include supporting documentation and letters of support with the letter of appeal.

(d) After considering the matter at its meeting, the LSA Board will make a recommendation on the appeal to the Director and Librarian of the Texas State Library and Archives Commission. The Director and Librarian will make a final determination based on the recommendation but is not bound by the LSA Board's recommendation.

(e) The agency will notify the library of the final determination, at which point, the library can accept the ruling or appeal to the commission following the agency's protest procedure as described in §2.55 of this title (relating to Protest Procedure).

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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TRD-202405311

Sarah Swanson

General Counsel

Texas State Library and Archives Commission

Earliest possible date of adoption: December 15, 2024

For further information, please call: (512) 463-5460



## **TITLE 16. ECONOMIC REGULATION**

### **PART 9. TEXAS LOTTERY COMMISSION**

#### **CHAPTER 402. CHARITABLE BINGO OPERATIONS DIVISION**

The Texas Lottery Commission (Commission) proposes the repeal of existing 16 TAC §§402.301 (Bingo Card/Paper) and 402.303 (Pull-tab or Instant Bingo Dispensers); the addition of new 16 TAC §§402.105 (Postmarks, Timely Filing of Forms, Reports, Applications and Payment of Taxes and Fees), 402.301 (Approval of Pull-Tab Bingo Tickets), 402.302 (Pull-Tab Bingo Manufacturing Requirements), 402.303 (Pull-Tab Bingo Sales and Redemption), 402.304 (Pull-Tab Bingo Record Keeping), 402.305 (Pull-Tab Bingo Styles of Play), 402.306 (Bingo Card/Paper Definitions), 402.307 (Bingo Card/Paper Approval), 402.308 (Bingo Card/Paper Manufacturing Requirements), 402.309 (Bingo Card/Paper Record Keeping), 402.310 (Bingo Card/Paper Styles of Play), and 402.311 (Pull-Tab or Instant Bingo Dispensers); and amendments to 16 TAC §§402.100 (Definitions), 402.101 (Advisory Opinions), 402.102 (Bingo Advisory Committee), 402.103 (Training Program), 402.200 (General Restrictions on the Conduct of Bingo), 402.201 (Prohibited Bingo Occasion), 402.202 (Transfer of Funds), 402.203 (Unit Accounting), 402.210 (House Rules), 402.212 (Promotional Bingo), 402.300 (Pull-Tab Bingo), 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), 402.334 (Shutter Card Bingo Systems - Approval of Shutter Card Bingo Systems), 402.400 (General

Licensing Provisions), 402.401 (Temporary License), 402.402 (Registry of Bingo Workers), 402.404 (License Classes and Fees), 402.411 (License Renewal), 402.443 (Transfer of a Grandfathered Lessor's Commercial Lessor License), 402.500 (General Records Requirements), 402.502 (Charitable Use of Net Proceeds Recordkeeping), 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), 402.702 (Disqualifying Convictions), 402.703 (Audit Policy), 402.706 (Schedule of Sanctions), and 402.707 (Expedited Administrative Penalty Guideline).

The proposed repeals, new rules, and amendments are the result of the Commission's recent rule review conducted in accordance with Texas Government Code §2001.039, as well as the agency's recent review by the Texas Sunset Advisory Commission. Among the more significant changes, this proposal addresses issues identified as rulemaking gaps in the May 2024 Texas Sunset Advisory Commission Staff Report (Staff Report). Specifically, the Staff Report noted that there was "no clarification of what classifies as a bingo hall's "premises..." (addressed in Rule 402.100), "no clarification that bingo products may not be purchased using a credit card ..." (addressed in Rule 402.200), "no 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).

This proposal also amends aspects of the Bingo Advisory Committee (BAC) to ensure that it complies with the Bingo Enabling Act (BEA); breaks two comprehensive rules on pull-tabs and bingo paper into multiple smaller rules for ease of reference; creates a single standard for determining when a form, report, application, or payment has been mailed to the Commission; clarifies and updates agency processes; eliminates references to terms, laws, and processes that are no longer in place; and conforms the rules to the BEA.

The proposed new Rule 402.105 establishes a single standard for determining the timeliness of filings by licensees. A form, report, application, or payment will be deemed filed or paid based on the postmark or receipt mark date, or, if filed electronically, the day that it was filed. Currently, there are different standards throughout the rules depending on the type of document or payment filed. The different standards will be deleted in this rulemaking and replaced by this single rule. This new rule was modeled on a similar rule adopted by the Comptroller of Public Accounts used to determine the timeliness of tax payments and related forms.

The proposed new Rules 402.301, 402.302, 402.303, 402.304 and 402.305 are necessary to break the current Rule 402.300, regarding pull-tab bingo tickets, into smaller rules for ease of reference. There are no changes to the rule language from the current version.

The proposed new Rules 402.306, 402.307, 402.308, 402.309, and 402.310 are necessary to break the current Rule 402.301, regarding bingo card/paper, into smaller rules for ease of reference. The new Rules 402.306 and 402.310 also contain amendments allowing break-open bingo games to be pre-called, and will properly categorize braille and loteria cards as bingo equip-

ment that require approval by the Commission. There are no other changes to the rule language from the current version.

The proposed new Rule 402.311, regarding pull-tab or instant bingo dispensers, is currently at Rule 402.303 and needs to be moved to break Rule 402.300 into multiple parts. There are no changes to the rule language from the current version.

The proposed amendments to Rule 402.100 include a definition of "premises" that conforms with the BEA. This change addresses a gap that was identified by the Staff Report.

The proposed amendments to Rule 402.101 change a reference to the bingo operations director from "his" to "his or her" and eliminate the requirement that the general counsel approve a bingo advisory opinion before it is issued.

The proposed amendments to Rule 402.102 eliminate the appointment of a substitute member to the BAC if a member from one of the required interest groups cannot be appointed; clarify that a member serves at the pleasure of the Commission or until they resign or are unable to serve; provide for virtual meetings; and clarify the BAC's annual reporting deadline and reappointment process.

The proposed amendments to Rule 402.103 clarify that conductors may only choose an on-site bingo training program if one is available. The amendments also codify the agency's practice that non-regular conductors are not subject to training requirements.

The proposed amendments to Rule 402.200 correct a typo and specify that formal complaints to the Commission must be in writing. The amendments also codify a prior bingo advisory opinion that organizations may not accept credit payments for bingo products. This change addresses a gap that was identified by the Staff Report.

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

The proposed amendments to Rule 402.202 delete a reference to the timely submission of a transfer of funds form. This rule is no longer necessary due to the new rule on timeliness of submissions at Rule 402.105.

The proposed amendments to Rule 402.203 delete a reference that allows the sale of pull-tab bingo tickets between organizations with the prior written consent of the Commission. The authority for an organization to sell certain bingo products to another organization with the prior approval of the Commission comes from Bingo Enabling Act §2001.407(f). That section does not provide for the sale of pull-tabs.

The proposed amendments to Rule 402.210 require organizations to prohibit any person from offering to sell bingo products or offering to award bingo prizes to persons outside of a bingo occasion via a telecommunications device.

The proposed amendments to Rule 402.212 clarify that approval for a promotional bingo event will only be issued if the request complies with all the requirements of the rule.

The proposed amendments to Rule 402.300 are necessary to break the current Rule 402.300, regarding pull-tab bingo tickets, into smaller rules for ease of reference. There are no changes to the rule language from the current version.



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

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

The proposed amendments to Rule 402.326 delete an obsolete reference to "dedicated modem phone lines."

The proposed amendments to Rule 402.334 provide that a manufacturer must provide any software necessary to determine if its shutter card bingo system meets rule requirements.

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

The proposed amendments to Rule 402.401 clarify that a regular organization that surrenders its regular license may retain up to 12 unused temporary licenses so long as their dates-of-use are designated within 10 days of the surrender. The amendments also correct references to two forms.

The proposed amendments to Rule 402.402 eliminate the requirement for an applicant to list his or her race on an application for the worker registry.

The proposed amendments to Rule 402.404 eliminate unnecessary references to "regular" licenses.

The proposed amendments to Rule 402.411 allow the division to "provide" renewal notices rather than "mail" them, and delete a reference to the timely submission of license renewal applications, which is no longer necessary due to the proposed new Rule 402.105.

The proposed amendments to Rule 402.443 provide that a grandfathered license held by a legal entity is not considered to be transferred due to changes to the legal entity so long as the entity's taxpayer number remains the same. This rule codifies the Commission's practice on the transfer of grandfathered lessor licenses and conforms with a previously issued Office of the Attorney General Opinion. This change addresses a gap that was identified by the Staff Report.

The proposed amendments to Rule 402.500 codify the Commission's practice that bingo operations must use cash basis accounting.

The proposed amendments to Rule 402.502 eliminate unnecessary language related to the kinds of documentation that may be relied on to prove charitable distributions were properly made.

The proposed amendments to Rule 402.600 delete references to the timely submission of bingo reports and payments. These references are no longer necessary due to the new rule on timeliness of all submissions at Rule 402.105.

The proposed amendments to Rule 402.601 provide that a credit of \$100 or less entered by an organization or lessor on its quarterly report will be accessible for viewing in the Bingo Service Portal, rather than preprinted on the quarterly report.

The proposed amendments to Rule 402.602 eliminate waivers of penalties and interest due to the late payment of prize fees. Penalties and interest for late prize fee payments come from

BEA §2001.504. That section does not provide for a waiver of the penalty and interest, in contrast to BEA §2001.451(k) which explicitly allows the director to waive net proceeds and charitable distribution requirements. The difference between those provisions indicates that the legislature did not intend to give the director the ability to waive penalties and interest for the late payment of prize fees.

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

The proposed amendments to Rule 402.703 provide that a licensee's compliance history shall be considered as a risk factor in audit determinations. This change addresses a gap that was identified by the Staff Report.

The proposed amendments to Rule 402.706 eliminate warnings for first time violations of serious offenses or repeat violations of lesser offenses. The amendments also provide a definition of "repeat violation." This change addresses a gap that was identified by the Staff Report.

The proposed amendments to Rule 402.707 change the bingo operations director's pronoun from "his" to "his or her"; reiterate that formal complaints must be in writing; and eliminate warnings for repeat offenses. This change addresses a gap that was identified by the Staff Report.

LaDonna Castañuela, Charitable Bingo Operations Director, has determined that for each year of the first five years the proposed repeals, new rules and amendments will be in effect, the public benefit expected includes clearer and more efficient standards on filing deadlines and other division processes; more easily searchable rules; correction of typos and deletion of obsolete rules; conforming the rules to the Bingo Enabling Act with respect to the Bingo Advisory Committee, penalty waivers, and the transfer of pull-tabs; and addressing issues identified as rulemaking gaps in the Staff Report.

Sergio Rey, Controller, has determined that for each year of the first five years the proposed repeals, new rules and amendments will be in effect, there will be no significant fiscal impact for state or local governments as a result of the proposed repeals, new rules and 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 repeals, new rules and amendments, as proposed. Furthermore, an Economic Impact Statement and Regulatory Flexibility Analysis is not required because the proposed repeals, new rules and 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).

Pursuant to Texas Government Code §2001.0221, the Commission provides the following Government Growth Impact Statement for the proposed repeals, new rules and amendments. For each year of the first five years the proposed repeals, new rules and amendments will be in effect, Sergio Rey, Controller, has determined the following:

- (1) The proposed repeals, new rules and amendments do not create or eliminate a government program.
- (2) Implementation of the proposed repeals, new rules and amendments does not require the creation of new employee positions or the elimination of existing employee positions.

(3) Implementation of the proposed repeals, new rules and amendments does not require an increase or decrease in future legislative appropriations to the Commission.

(4) The proposed repeals, new rules and amendments do not require an increase or decrease in fees paid to the Commission.

(5) The proposed repeals, new rules and amendments do not create a new regulation.

(6) The proposed repeals, new rules and amendments do not expand or limit an existing regulation.

(7) The proposed repeals, new rules and amendments do not increase or decrease the number of individuals subject to the rule's applicability.

(8) The proposed repeals, new rules and amendments do not positively or adversely affect this state's economy.

The Commission requests comments on the proposed repeals, new rules and 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 30 days after publication of this proposal in the *Texas Register* to be considered. The Commission will also hold a public hearing to receive comments on this proposal at 1:00 p.m. on December 4, 2024, at 1801 Congress Ave., George H. W. Bush Building, 4th Floor, Board Room 4.300, Austin, TX, 78701.

## SUBCHAPTER A. ADMINISTRATION

### 16 TAC §§402.100 - 402.103

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, and Texas Government Code §467.102, which authorizes the Commission to adopt rules for the enforcement and administration of the laws under the Commission's jurisdiction.

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

#### §402.100. Definitions.

The following words and terms, when used in this chapter and Texas Occupations Code, Chapter 2001, shall have the following meanings, unless the context clearly indicates otherwise.

(1) - (8) (No change.)

(9) Premises--The area subject to the direct control of and actual use by a licensed authorized organization or group of authorized organizations to conduct bingo. There may not be more than one premises under a common roof or over a common foundation. A premises must have an address. The term does not include a virtual location or place.

#### §402.101. Advisory Opinions.

(a) Time Period.

(1) - (2) (No change.)

(3) The authority granted by Occupations Code, §2001.059, is delegated to the Charitable Bingo Operations Director or his or her designee. [The General Counsel must approve the advisory opinion prior to the issuance of the advisory opinion by the Charitable Bingo Operations Director.] The Commission by separate order may delegate to an employee of the Commission the authority granted.

(4) (No change.)

(b) - (e) (No change.)

#### §402.102. Bingo Advisory Committee.

(a) (No change.)

(b) What is the composition of the Bingo Advisory Committee?

(1) - (2) (No change.)

~~[(3) If there is not an individual to represent one of the required interest groups, the Commission may appoint a member from the remaining interest groups.]~~

(c) - (e) (No change.)

(f) [How long may members serve on the BAC?]

~~[(4) The Commission appoints each member to serve for a one-year term or until the Commission appoints a successor.]~~

~~[(2)] Each member serves at the pleasure of the Commission or until they resign or are unable to serve.~~

(g) (No change.)

(h) When and where does the BAC meet?

(1) (No change.)

(2) BAC meetings may ~~[must]~~ be held virtually or at a state office building [the Commission headquarters] in Austin, Texas. ~~[Texas; provided that, meetings may be held at a location in Texas other than Austin, subject to the discretion of the Commission and BAC presiding officer.]~~

(i) - (m) (No change.)

(n) What are the BAC's reporting requirements?

(1) - (2) (No change.)

(3) At the final Commission meeting of any state fiscal year, the BAC will report to the Commission on its activities relating to the Commission-approved workplan for the preceding fiscal year [At the first Commission meeting held prior to September 1 each year, the BAC will provide to the Commission a report of its activities as they relate to the workplan approved by the Commission the previous year].

(o) When does the BAC cease to exist? The BAC will cease to exist annually on August 31, unless the Commission, prior to August 31, votes to continue the BAC. The Commission may continue the BAC with the current members in place.

#### §402.103. Training Program.

(a) (No change.)

(b) Training format. The training program is offered online and may be offered on-site [in two formats-on-site and on-line. Individuals may choose an on-site or on-line training course].

(c) Required training.

(1) - (4) (No change.)

(5) Non-regular conductors are not subject to training requirements.

(d) - (g) (No change.)

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.



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Texas Lottery Commission

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## 16 TAC §402.105

The new rule is proposed under Texas Occupations Code §2001.054, which authorizes the Commission to adopt rules to enforce and administer the Bingo Enabling Act, and Texas Government Code §467.102, which authorizes the Commission to adopt rules for the enforcement and administration of the laws under the Commission's jurisdiction.

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

*§402.105. Postmarks, Receipt Marks, Timely Filing of Forms, Reports, Applications and Payment of Fees.*

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

(1) Common carrier--A person who provides transportation of persons or property to members of the general public for compensation in the normal course of business.

(2) Receipt mark--An official mark printed by a common carrier recording the date and place of mailing.

(3) United States Postal Service postmark--An official mark printed over a postage stamp by the United States Postal Service, canceling the stamp and recording the date and place of mailing. A postmark does not include dates recorded on postage purchased over the internet, pre-metered stamps, or postage from postage meters unless an actual postmark is generated.

### (b) General Provisions.

(1) All forms, reports, and applications required to be submitted to the commission shall be filed on or before the due date for filing the form, report, or application.

(2) All payments required to be remitted to the commission shall be paid on or before the due date for making such payments.

(3) If the due date falls on a Saturday, Sunday, or legal holiday, the due date is the next business day.

(4) If a form, report, application, or payment is postmarked or receipt-marked on or before the due date, it will be considered timely filed.

### (c) Timely Filing or Payment - Postmark or Receipt Mark.

(1) To determine whether a form, report, or application has been timely filed, or a payment timely made, the date of the United States Postal Service postmark or a receipt mark showing when a report or payment was delivered to a common carrier will be prima facie evidence of the date the filing or payment was made, so long as the envelope, or common carrier or contract carrier documentation, reflects a valid commission address.

(2) If a report or payment is received through the United States Postal Service and does not have a postmark, or is received

through a common carrier and does not have a receipt mark, the date of the filing or payment is presumed, in the absence of evidence supporting the assertion of a different filing date, to be:

(A) if received through the United States Postal Service, three days prior to the date on which the form, report, application, or payment is physically received by the commission, as evidenced by commission records; or

(B) if received through a common carrier, one day prior to the date on which the report or payment is physically received by the commission, as evidence by commission records.

(3) If a licensee penalized for late filing or late payment can provide a postmark or receipt mark complying with the requirements of timely filing and timely paying but, through no fault of the licensee, the form, report, application, or payment arrived after the due date, the filing or payment will be considered timely. The licensee's testimony that the form, report, application, or payment was sent will not be considered as evidence of timely filing or payment.

(4) A form, report, application, or payment that is submitted electronically will be considered filed or paid on the date it is received.

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 B. CONDUCT OF BINGO

### 16 TAC §§402.200 - 402.203, 402.210, 402.212

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, and Texas Government Code §467.102, which authorizes the Commission to adopt rules for the enforcement and administration of 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) - (h) (No change.)

(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) (No change.)

(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) - (B) (No change.)

(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 written complaint.

(3) - (4) (No change.)

(j) - (l) (No change.)

(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 ensure ~~[insure]~~ that the numbers on the card in fact have been drawn from the receptacle.

(A) - (B) (No change.)

(2) (No change.)

(n) - (p) (No change.)

(q) A licensed authorized organization may not accept credit cards or any other type of credit payments for the payment of bingo products, regardless of how the transaction is structured.

*§402.201. Prohibited Bingo Occasions.*

(a) No licensee shall sell bingo cards for a bingo occasion or commence or continue a bingo occasion unless an active member that has been designated pursuant to the Occupations Code, §2001.411, is physically present at the bingo premises and is actively supervising and directing the sale of bingo cards and the bingo occasion. Any sale of bingo cards, game of bingo, or bingo occasion conducted in violation of this provision is a violation of the Bingo Enabling Act.

(b) If a complaint regarding illegal bingo is substantiated, the Commission will issue a cease and desist letter and copy local law enforcement if the location is known.

*§402.202. Transfer of Funds.*

(a) (No change.)

(b) Notification of the transfer of funds into the bingo account or bingo unit account must be submitted on a form prescribed by the Commission. ~~[To be timely submitted, the notification's postmark date, date of delivery for common carrier, date of e-mail, or date of facsimile must clearly show a date that is no later than 14 calendar days after the date the funds were transferred.]~~

(c) - (i) (No change.)

*§402.203. Unit Accounting.*

(a) - (f) (No change.)

(g) Unit Transactions.

(1) Upon prior written consent by the Commission:

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

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

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

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

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

(h) - (l) (No change.)

*§402.210. House Rules.*

(a) - (f) (No change.)

(g) House rules shall prohibit any person from offering to sell bingo products, or offering to award bingo prizes to persons outside of the licensed location during an occasion via cell phone, laptop computer, electronic tablet, or other telecommunications device.

*§402.212. Promotional Bingo.*

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

(c) Notification.

(1) (No change.)

(2) The commission will issue a Recognition of Exemption Notice for Promotional Bingo Games letter to the business filing a notice that complies with the requirements of this section ~~[the prescribed form to conduct the exempt promotional bingo game]~~.

(d) (No change.)

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## SUBCHAPTER C. BINGO GAMES AND EQUIPMENT

### 16 TAC §§402.300, 402.324 - 402.326, 402.334

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, and Texas Government Code §467.102, which authorizes the Commission to adopt rules for the enforcement and administration of the laws under the Commission's jurisdiction.

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

*§402.300. Pull-Tab Bingo Definitions.*

~~[(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 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 distributor 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 eards.]

[(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.]

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

(a) A card-minding system must not be sold, leased, or otherwise furnished to any person for use in the conduct of bingo until it has first been tested and certified as compliant with the standards in this subchapter by an independent testing facility [or the Commission's own testing lab]. The card-minding system shall be submitted for testing at the manufacturer's expense. The testing facility should be required to ensure that the card-minding system conforms to the restrictions and conditions set forth in these standards. The approval process is set forth in subsections (b) - (f) of this section.

(b) Utilizing an Independent Testing Facility:

(1) - (5) (No change.)

(6) The Commission shall either approve or disapprove the submission based on the test results and inform the manufacturer and lab of the results within thirty (30) calendar days of receipt of the test results and any other forms and documentation required to ensure the card-minding system is compliant with the standards in this subchapter.

(c) Utilizing the Commission's testing lab.]

[(1) Manufacturer has card-minding system ready for submission;]

[(2) Manufacturer submits system to Commission with letter outlining system specifics;]

[(3) Testing lab may request a demonstration of the system prior to testing;]

[(4) Lab performs validation testing to ensure compliance with Commission's requirements. This testing may include functional testing and/or modification testing, if applicable;]

[(5) Lab communicates with manufacturer on any questions arising from testing;]

[(6) Lab recommends approval or denial of the system within forty-five (45) calendar days from submission date; and]

[(7) The Commission issues an approval or denial letter to the manufacturer which includes software/firmware signatures (checksum).]

(c) [(4)] After the Commission approves a card-minding system, the manufacturer shall notify the Commission of the date, time and place of the first installation of the system so that a Commission representative may observe and review the card-minding system.

(d) [(e)] Checksum or digital signatures will be obtained from the proprietary software submitted for testing to be used to verify that proprietary software at playing locations is the same as the software that was approved. The manufacturer shall provide any software necessary to view the checksum or digital signatures.

(e) [(f)] The decision by the director to approve or disapprove any component of a card-minding system is administratively final.

(f) [(g)] The manufacturer shall be responsible for the costs related to the testing of card-minding systems [to include the fees charged by independent testing facilities or the Commission testing lab].

(g) [(h)] The manufacturer shall be responsible for the travel costs incurred by the Commission to audit the initial installation of a card-minding system in the state of Texas.

(h) [(i)] All card-minding system approvals issued by the Commission prior to the effective date of this section remain valid. Any subsequent changes or modifications to an approved system require compliance with this section.

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

(a) - (c) (No change.)

(d) The licensed authorized organization must treat void transactions resulting in a cash refund in the following manner:

(1) - (3) (No change.)

(4) All voided receipts, whether cash or other payment or as the result of presales, must be attached to the bingo occasion report printed at the end of each bingo occasion and maintained with the records.

(e) - (q) (No change.)

*§402.326. Card-Minding Systems-Distributor Requirements.*

(a) Installation. Each distributor that leases, sells, or otherwise furnishes a card-minding system shall install the system based on the manufacturer's approval letter for use in Texas. Each system shall be installed with:

(1) - (3) (No change.)

(4) [a dedicated modem phone line or] internet connectivity.

(b) - (h) (No change.)

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

(a) - (c) (No change.)

(d) Checksum or digital signatures will be obtained from the proprietary software submitted for testing to be used to verify that proprietary software at playing locations is the same as the software that was approved. The manufacturer shall provide any software necessary to view the checksum or digital signatures.

(e) - (h) (No change.)

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on November 1, 2024.

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Bob Biard

General Counsel

Texas Lottery Commission

Earliest possible date of adoption: December 15, 2024

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



## 16 TAC §402.301, §402.303

The repeals are proposed under Texas Occupations Code §2001.054, which authorizes the Commission to adopt rules to enforce and administer the Bingo Enabling Act, and Texas Government Code §467.102, which authorizes the Commission to adopt rules for the enforcement and administration of the laws under the Commission's jurisdiction.

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

*§402.301. Bingo Card/Paper.*

*§402.303. Pull-tab or Instant Bingo Dispensers.*

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



## 16 TAC §§402.301 - 402.311

The new rules are proposed under Texas Occupations Code §2001.054, which authorizes the Commission to adopt rules to enforce and administer the Bingo Enabling Act, and Texas Government Code §467.102, which authorizes the Commission to

adopt rules for the enforcement and administration of the laws under the Commission's jurisdiction.

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

§402.301. Approval of Pull-Tab Bingo Tickets.

(a) 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 its 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 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.

(b) 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 distributor 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.

§402.302. Pull-Tab Bingo 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.

#### §402.303. Pull-Tab Bingo Sales and Redemption. 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 its bingo license 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.

#### §402.304. Pull-Tab Bingo Record Keeping.

(a) 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.

##### (b) 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.

#### §402.305. Pull-Tab Bingo Styles 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.

§402.306. Bingo Card/Paper 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 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 may have 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.

(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.

§402.307. Bingo Card/Paper Approval.

(a) 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.

(b) 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.

§402.308. Bingo Card/Paper Manufacturing Requirements. 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.

§402.309. Bingo Card/Paper Record Keeping.

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.

§402.310. Bingo Card/Paper Styles of Play.

(a) Braille Cards. Braille cards are bingo equipment as defined by Occupations Code, §2001.002(5) and must be approved by the Commission. Players may not use their own personal braille cards.

(b) 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 bingo equipment as defined by Occupations Code, §2001.002(5) and must be approved by the Commission.

(c) 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 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.

(d) 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.

(e) 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.

(f) 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.

(g) 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.

#### §402.311. Pull-Tab or Instant Bingo Dispensers.

##### (a) Approval of Pull-Tab or Instant Bingo Dispensers.

(1) No pull-tab or instant bingo dispenser may be sold, leased, or otherwise furnished to any person in this state or used in the conduct of bingo for public play unless and until a dispenser which is identical to the dispenser intended to be sold, leased, or otherwise furnished has first been presented to the Commission by its manufacturer, at the manufacturer's expense, and has been approved by the Commission for use within the state.

(2) An identical dispenser to the dispenser intended to be sold, leased, or otherwise furnished must be presented to the Commission in Austin, Texas for review. If granted, approval extends only to the specific dispenser model approved. Any modification must be approved by the Commission.

(3) Once a dispenser has been approved, the Commission may keep the dispenser for further testing and evaluation for as long as the Commission deems necessary.

##### (b) Manufacturing Requirements.

(1) Manufacturers of pull-tab or instant bingo dispensers must manufacture each dispenser in such a manner to ensure that the dispenser dispenses a break-open bingo ticket, an instant bingo ticket, a pull-tab bingo game or instant bingo card only after the player inserts money into the dispenser, and that such ticket, game or card is the sole thing of value which may be redeemed for cash.

(2) Manufacturers of dispensers must manufacture each dispenser in such a manner to ensure that the device neither displays nor has the capability to determine whether a break-open bingo ticket, an instant bingo ticket, or a pull-tab bingo game is a winning or non-winning ticket.

(3) Manufacturers of dispensers must manufacture each dispenser in such a manner that any visual animation does not simulate or display rolling or spinning reels.

(4) Manufacturers of dispensers must manufacture each dispenser in such a manner that any stacking column is adjustable for varying lengths of break-open bingo tickets, instant bingo tickets, or pull-tab bingo games. As an option, a dispenser may use replaceable stacking columns that accommodate varying lengths of break-open

bingo tickets, instant bingo tickets, or pull-tab bingo games. The dispenser must be adjustable for varying thicknesses of break-open tickets, instant bingo tickets, or pull-tab bingo games.

(5) If the Commission detects or discovers any problem with the dispenser that affects the security and/or integrity of the break-open bingo ticket, an instant bingo ticket, or a pull-tab bingo game or dispenser, the Commission may direct the manufacturer, distributor, or conductor to cease the sale, lease, or use of the dispenser, as applicable. The Commission may require the manufacturer to correct the defect, malfunction, or problem or recall the dispenser immediately upon notification by the Commission to the manufacturer. If the manufacturer, distributor, or conductor detects or discovers any defect, malfunction, or problem with the dispenser, the manufacturer, distributor, or conductor, as applicable, shall immediately remove the dispenser from use or play and immediately notify the Commission of such action.

##### (c) Conductor Requirements.

(1) A conductor who has purchased or leased a dispenser may not allow another conductor to use such dispenser unless and until the former conductor has removed its break-open bingo tickets, instant bingo tickets, pull-tab bingo games and instant bingo cards from the dispenser.

(2) Each conductor who uses a dispenser at its bingo occasion shall affix to the dispenser an identification label which displays the conductor's name and Texas taxpayer identification number.

(3) The keys to open the locked doors to the dispenser's ticket dispensing area and coin and/or cash box must be in the possession and control of the operator in charge of the occasion, or someone designated by the operator. The operator in charge or the person designated shall present the keys to a Commission representative immediately upon request. The operator in charge shall be responsible for ensuring that the person so designated shall have the keys available at all times during the occasion.

(4) All break-open bingo tickets, instant bingo tickets, pull-tab bingo games or instant bingo cards in any one column or sleeve must have the same serial number, color description, and must be of the same kind and type.

(d) Inspection. The Commission or the Commission's authorized representative(s) may examine and inspect any individual pull-tab or instant bingo dispenser. Such examination and inspection includes immediate access to the dispenser and unlimited inspection of all parts of the dispenser.

##### (e) Records.

(1) All records, reports, and receipts relating to the pull-tab or instant bingo dispenser sales, maintenance, and repairs must be retained by the conductor on the premises where the conductor is licensed to conduct bingo or at a location designated in writing by the conductor for a period of four years for examination by the Commission. Any change in the designated location must be submitted to the Commission in writing at least ten days prior to the change.

(2) Manufacturers and distributors must provide and maintain for a period of four years the following information on each invoice or other document used in connection with a sale or lease, as applicable:

- (A) date of sale or lease;
- (B) quantity sold or leased;
- (C) cost per dispenser;
- (D) model and serial number of each dispenser;

(E) name and address of the purchaser or lessee; and

(F) Texas taxpayer identification number of the purchaser or lessee.

(f) Restrictions. No licensee may display, use or otherwise furnish a dispenser 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.

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 - 402.402, 402.404, 402.411, 402.443

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, and Texas Government Code §467.102, which authorizes the Commission to adopt rules for the enforcement and administration of the laws under the Commission's jurisdiction.

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

#### §402.400. General Licensing Provisions.

(a) - (d) (No change.)

(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. Failure to respond within this timeframe will result in the application being deemed incomplete and withdrawn. The application and any submitted documentation will not be returned. [If the applicant fails to respond within 21 calendar days of the notification, the application will be deemed incomplete and returned to the applicant.]

(f) - (n) (No change.)

#### §402.401. Temporary License.

(a) (No change.)

(b) General.

(1) - (3) (No change.)

(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 twelve (12) per calendar year. If more than twelve (12) previously specified occasions remain, the licensed authorized organization

must provide to the Commission written notification of no more than twelve (12) 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 that have not been designated within ten days of surrender [in excess of the twelve (12) per year].

(B) (No change.)

(5) (No change.)

(c) - (d) (No change.)

(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 an [a Texas] Application for Temporary Bingo Occasions for Non-Regular [Non-Licensed] Organization, FORMID 20 [- Section 2].

(2) Organizations who have held a temporary license occasion in the past three years may submit an [Texas] Application for a Temporary Bingo Occasions for Non-Regular [Non-Licensed] Organization, FORMID 19, [- Section 1] to apply for a temporary license.

(3) (No change.)

#### §402.402. Registry of Bingo Workers.

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

(1) - (4) (No change.)

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

(6) - (10) (No change.)

(b) - (s) (No change.)

#### §402.404. License Classes and Fees.

(a) Definitions.

(1) (No change.)

(2) [Regular] License Classes and Applicable Fee Amount:

(A) - (C) (No change.)

(b) - (e) (No change.)

(f) [Regular] License Class Recalculation.

(1) - (7) (No change.)

(g) - (j) (No change.)

#### §402.411. License Renewal.

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

(c) The Commission may notify licensees regarding the expiration of their license(s) and the potential for renewal. Failure of the licensee to receive the renewal notice(s) provided [mailed] by the Commission is not a mitigating circumstance for untimely filing of a renewal application.

[(d) To be timely filed:]

[(1) the renewal application and payment, if applicable, of the estimated license fee must be received by the Commission no later than the license expiration date; or]

[(2) the renewal application's envelope postmarked date must clearly show a date that is no later than the license expiration date, unless the expiration date is a Saturday, Sunday, or legal holiday, in which event the application is due the next day which is not a Saturday, Sunday, or legal holiday; or]

[(3) an application bearing no legible postmark, postal meter date, or date of delivery to the common carrier shall be considered to have been sent seven calendar days before receipt by the Agency, or on the date of the document if the document date is less than seven days earlier than the date of receipt.]

(d) [(e)] Notwithstanding subsection (b) of this section, if a renewal application is not timely filed, a licensee may renew its [their] license by filing a complete application for renewal with the Commission and, if applicable, submitting the requisite license fee and late license renewal fee. The late license renewal fee is based on the estimated license fee for the renewal period. Penalty amounts are calculated as follows:

Figure: 16 TAC §402.411(d)

[Figure: 16 TAC §402.411(e)]

(c) [(f)] Any required late license renewal fee is due within 14 calendar days of the date of the written notification by the Commission of the amount due.

(f) [(g)] The Commission will not issue a temporary license to a licensed authorized organization that has not filed its renewal application.

(g) [(h)] A late license renewal fee is not refundable.

(h) [(i)] License renewal applications received more than 60 days after the license expiration date will be returned unprocessed by the Commission to the sender.

(i) [(j)] To be complete, an application for renewal must contain all information that is required to be provided in or with the initial license application, as well as any other information required by the Commission.

(1) - (2) (No change.)

(j) [(k)] Unless otherwise provided by law or rule, the general licensing provisions in §402.400 of this title (relating to General Licensing Provisions) shall govern the license renewal process, including the submission and review of the renewal application, as if the renewal application was an initial license application.

(k) [(l)] Except as authorized by the Charitable Bingo Operations Director, or his or her [their] designee, license renewal applications received by the Commission more than 60 days prior to the current license expiration date will be returned unprocessed by the Commission to the sender.

§402.443. *Transfer of a Grandfathered Lessor's Commercial Lessor License.*

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

(c) A change in the name or the ownership of a legal entity that holds a grandfathered license does not constitute a transfer of the license if the entity's Comptroller's Taxpayer Number remains the same.

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## SUBCHAPTER E. BOOKS AND RECORDS

### 16 TAC §402.500, §402.502

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, and Texas Government Code §467.102, which authorizes the Commission to adopt rules for the enforcement and administration of the laws under the Commission's jurisdiction.

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

§402.500. *General Records Requirements.*

(a) - (d) (No change.)

(e) Bingo uses cash basis accounting, which records revenue and expenses when the cash related to those transactions is actually received or dispensed.

§402.502. *Charitable Use of Net Proceeds Recordkeeping.*

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

(c) Record Keeping:

(1) - (4) (No change.)

(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) - (B) (No change.)

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

(A) - (B) (No change.)

(7) - (11) (No change.)

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## SUBCHAPTER F. PAYMENT OF TAXES, PRIZE FEES AND BONDS

### 16 TAC §§402.600 - 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, and Texas Government Code §467.102, which authorizes the Commission to adopt rules for the enforcement and administration of the laws under the Commission's jurisdiction.

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

#### §402.600. *Bingo Reports and Payments.*

(a) On or before the 25th of the month prior to the end of the calendar quarter, the Commission may provide reminder notifications to licensees regarding upcoming filing deadlines [will mail the "Texas Bingo Conductor's Quarterly Reports", "Texas Lessor Quarterly Reports", and "Manufacturer/Distributor Quarterly Reports and Supplements" to its licensees].

(b) Quarterly reports, supplements, and payments due to be submitted on a date occurring on a Saturday, Sunday, or legal holiday will be due the next business day. The report will be deemed filed in accordance with Rule §402.105 [when deposited with the United States Postal Service or private mail service, postage or delivery charges paid and the postmark or shipping date indicated on the envelope is the date of filing. For quarterly reports and supplements submitted electronically, the report will be deemed filed as of the date and time sent from the specified e-mail address].

(c) - (c) (No change.)

(f) Quarterly report for information relating to a manufacturer or distributor license.

(1) A manufacturer or [of] distributor shall file a report on a form prescribed by the Commission or in an electronic format prescribed by the Commission, reflecting each sale or lease of bingo equipment, and the total sales of cards, sheets, pads and instant bingo to a person or organization in this state or for use in this state.

(2) - (5) (No change.)

(g) - (m) (No change.)

#### §402.601. *Interest on Delinquent Tax.*

(a) (No change.)

(b) Interest on Refund or Credit.

(1) (No change.)

(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 accessible for viewing in the Bingo Service Portal or through the agency's system for any inquiries regarding the current filing quarter [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) - (4) (No change.)

#### §402.602. *[Waiver of Penalty.] Settlement of Prize Fees, 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 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 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 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 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 prize fees, penalty or interest on an inactive account. The Commission may settle a claim for prize fees, penalty, or interest if the total cost of collection, as determined by the Commission, would exceed the total amount due.

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## SUBCHAPTER G. COMPLIANCE AND ENFORCEMENT

### 16 TAC §§402.702, 402.703, 402.706, 402.707

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, and Texas Government Code §467.102, which authorizes the Commission to adopt rules for the enforcement and administration of the laws under the Commission's jurisdiction.

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

*§402.702. Disqualifying Convictions.*

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

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

(1) (No change.)

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

(3) (No change.)

(d) - (l) (No change.)

*§402.703. Audit Policy.*

(a) (No change.)

(b) Audit Determination.

(1) (No change.)

(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 shall ~~may~~ be based on, among other things, a licensee's gross receipts, gross rentals, bingo expenses, net proceeds, compliance history, and/or charitable distributions. An audit must commence by the fourth anniversary of the date a licensee is identified for audit.

(3) (No change.)

(c) - (g) (No change.)

*§402.706. Schedule of Sanctions.*

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

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

Figure: 16 TAC §402.706(c)  
[Figure: 16 TAC §402.706(e)]

(d) - (h) (No change.)

(i) If a person is charged with a repeat violation within 36 months (3 years) of a previous violation, then the sanction for a repeat violation will be imposed according to the Schedule of Sanctions for repeat violations. A repeat violation of a previous violation means that the violations in both instances are the same.

(j) - (l) (No change.)

*§402.707. Expedited Administrative Penalty Guidelines.*

(a) - (c) (No change.)

(d) The NAVSA shall include the following information:

(1) - (3) (No change.)

(4) the dollar amount of the administrative penalty recommended by the director [Director] or his or her designee;

(5) - (9) (No change.)

(e) - (f) (No change.)

(g) If a person is charged with a repeat violation that may be expedited within 36 months (3 years) of the first violation, then the penalty for a repeat violation will be imposed according to the Expedited Administrative Penalty Chart for repeat violations.

Figure: 16 TAC §402.707(g)  
[Figure: 16 TAC §402.707(g)]

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 November 1, 2024.

TRD-202405230

Bob Biard

General Counsel

Texas Lottery Commission

Earliest possible date of adoption: December 15, 2024

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



## TITLE 19. EDUCATION

### PART 1. TEXAS HIGHER EDUCATION COORDINATING BOARD

#### CHAPTER 4. RULES APPLYING TO ALL PUBLIC INSTITUTIONS OF HIGHER EDUCATION IN TEXAS

##### SUBCHAPTER A. GENERAL PROVISIONS

###### 19 TAC §4.9

The Texas Higher Education Coordinating Board (Coordinating Board) proposes amendments to Texas Administrative Code, Title 19, Part 1, Chapter 4, Subchapter A, §4.9, relating to Limitations on the Number of Courses that May be Dropped Under Certain Circumstances by Undergraduate Students. Specifically, the proposed amendments include a re-organization of some subsections for clarity, and guidelines for institutions regarding statutory requirements for allowing a student to drop six or more courses. The proposed amendments also include a provision requiring an institution to maintain an appeals process where required by the Americans with Disabilities Act.

Elizabeth Mayer, Assistant Commissioner for Academic and Health Affairs, has determined that for each of the first five years the sections are in effect there would be no fiscal implications for state or local governments as a result of enforcing or administering the rule. There are no estimated reductions in costs to the state and to local governments as a result of enforcing or administering the rule. There are no estimated losses or increases in revenue to the state or to local governments as a result of enforcing or administering the rule.

There is no impact on small businesses, micro businesses, and rural communities. There is no anticipated impact on local employment.

Elizabeth Mayer, Assistant Commission for Academic and Health Affairs, has also determined that for each year of the first

# TABLES & GRAPHICS

Graphic images included in rules are published separately in this tables and graphics section. Graphic images are arranged in this section in the following order: Title Number, Part Number, Chapter Number and Section Number.

Graphic images are indicated in the text of the emergency, proposed, and adopted rules by the following tag: the word “Figure” followed by the TAC citation, rule number, and the appropriate subsection, paragraph, subparagraph, and so on.

Figure: 16 TAC §402.411(d) [~~16 TAC §402.411(e)~~]

Number of Days Late	Percentage of Estimated License Fee
1-14	10%
15-28	20%
29-42	30%
43-56	40%
57-60	50%

## Standard Administrative Penalty Chart

### Category 1

**\$250 [~~\$0 (Warning)~~] to \$1,000 for the 1st offense, except a 1st offense for Violation No. 6 involving gambling devices may result in up to \$1000 administrative penalty and/or license suspension, revocation or denial, or registry removal or denial**

**\$250 [~~\$0 (Warning)~~] to \$1,000 and/or license suspension, revocation or denial, or registry removal or denial for the 2nd offense**

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

### Category 2

**\$100 [~~\$0 (Warning)~~] to \$600 for the 1st offense**

**\$100 [~~\$0 (Warning)~~] to \$800 for the 2nd offense**

**\$100 [~~\$0 (Warning)~~] to \$1,000 and/or license suspension, revocation or denial, or registry removal or denial for the 3rd offense**

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

### Category 3

**\$0 (Warning) to \$400 for the 1st offense**

**\$100 [~~\$0 (Warning)~~] to \$600 for the 2nd offense**



**\$100 [~~\$0 (Warning)~~] to \$800 for the 3rd offense (Violation Nos. 18, 22, 23 – 28)**

**\$100 [~~\$0 (Warning)~~] to \$1,000 and/or license suspension, revocation or denial, or registry removal or denial for the 3rd offense (Violation Nos. 19, 20, 21, & 24)**

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

27	Rent for premises used for the conduct of bingo that was paid to the lessor was not paid in a lump sum that included all expenses authorized by the Bingo Enabling Act, Section 2001.458.
28	For organizations or units, deposits were made later than the end of the third business day following the day of the bingo occasion on which the receipts were <u>obtained</u> . [ <del>obtained.</del> ]

#### Category 4

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

**\$100 [~~\$0 (Warning)~~] to \$450 for the 2nd offense**

**\$100 [~~\$0 (Warning)~~] to \$600 for the 3rd offense**

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

#### Category 5

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

**\$100 [~~\$0 (Warning)~~] to \$300 for the 2nd offense**

**\$100 [~~\$0 (Warning)~~] to \$400 for the 3rd offense**

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

### Category 6

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

**\$50 [~~\$0 (Warning)~~] to \$150 for the 2nd offense**

**\$50 [~~\$0 (Warning)~~] to \$200 for the 3rd offense**

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

### Category 7

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

**\$50 [~~\$0 (Warning)~~] for the 2nd offense**

**\$50 [~~\$0 (Warning)~~] to \$1,000 for the 3rd offense**

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



Figure: 16 TAC §402.707(g)

Expedited Administrative Penalty Chart

Violation	Penalty
The organization conducted bingo outside of the licensed time.	1 <sup>st</sup> Offense - \$200 2 <sup>nd</sup> Offense - \$300 3 <sup>rd</sup> Offense - \$500
The organization sold pull-tab bingo tickets at an unauthorized time.	1 <sup>st</sup> Offense - \$200 2 <sup>nd</sup> Offense - \$300 3 <sup>rd</sup> Offense - \$500
The organization that is a member of a unit did not conduct its bingo games separately from the bingo games of the other members of the unit.	1 <sup>st</sup> Offense - Warn 2 <sup>nd</sup> Offense - \$300 3 <sup>rd</sup> Offense - \$500
The organization failed to have an authorized operator present at the bingo occasion.	1 <sup>st</sup> Offense - \$200 2 <sup>nd</sup> Offense - \$300 3 <sup>rd</sup> Offense - \$500
Prizes with an aggregate value of more than \$5,000.00 for bingo games other than pull-tab bingo and prizes of \$50 or less, as described in §2001.420(b)(2) of the Occupations Code, were offered or awarded for a single bingo occasion.	1 <sup>st</sup> Offense - \$200 2 <sup>nd</sup> Offense - \$300 3 <sup>rd</sup> Offense - \$500
The organization failed to prevent bingo workers from playing bingo.	1 <sup>st</sup> Offense - \$150 2 <sup>nd</sup> Offense - \$225 3 <sup>rd</sup> Offense - \$375
The organization offered or provided to a person the opportunity to play bingo without charge.	1 <sup>st</sup> Offense - \$150 2 <sup>nd</sup> Offense - \$225 3 <sup>rd</sup> Offense - \$375
The organization or lessor failed to conspicuously display the license issued at the place where the game was conducted at all times during the conduct of the game.	1 <sup>st</sup> Offense - \$100 2 <sup>nd</sup> Offense - \$150 3 <sup>rd</sup> Offense - \$250
The organization failed to have required information imprinted on each bingo gift certificate, specifically: the name and address of the licensed location(s) where the certificate may be redeemed for bingo paper, pull-tab bingo or card-minding devices; the monetary value of the certificate; the name of the licensed organization(s) authorized to accept the certificate; or the expiration date or blank space for the organization or unit to fill in an expiration date.	1 <sup>st</sup> Offense - \$50 2 <sup>nd</sup> Offense - \$75 3 <sup>rd</sup> Offense - \$125
A door prize with a value of more than \$250.00 was offered or awarded.	1 <sup>st</sup> Offense - \$50 2 <sup>nd</sup> Offense - \$75

	3 <sup>rd</sup> Offense - \$125
The organization failed to conspicuously display during a bingo occasion a sign indicating the operator in charge, the sign contained letters less than one (1) inch in height, the sign failed to inform the players that they should direct any questions or complaints regarding the conduct of the bingo occasion to the operator listed on the sign, or the sign failed to state that if the player is not satisfied with the operators response that the player has the right to file a <u>written</u> formal complaint with the Commission.	1 <sup>st</sup> Offense - \$30 2 <sup>nd</sup> Offense - \$45 3 <sup>rd</sup> Offense - \$75
The organization failed to verify winning bingo cards by someone at another table or location other than the winners, or by an electronic verifier system, winning cards were not shown on a monitor visible to all players, or the disposable card(s) or electronic representation of the card, was not posted for inspection for at least 30 minutes after the completion of the last game of that organization's occasion.	1 <sup>st</sup> Offense - \$30 2 <sup>nd</sup> Offense - \$45 3 <sup>rd</sup> Offense - \$75
The organization failed to obtain, maintain, keep current and make available for review to any person upon request a copy of the Bingo Enabling Act and the Rules of the Commission.	1 <sup>st</sup> Offense - Warn 2 <sup>nd</sup> Offense - <u>\$50</u> [ <del>Warn</del> ] 3 <sup>rd</sup> Offense - \$75
<b>Violations by a Worker</b>	
A person not listed on the registry of approved bingo workers acted as an operator, manager, cashier, usher, caller, or salesperson for an organization.	1 <sup>st</sup> Offense - Warn 2 <sup>nd</sup> Offense - \$45 3 <sup>rd</sup> Offense - \$75
A registered worker or operator for an organization did not wear, present, visibly display, or list the individuals name and unique registration number in a legible manner on his/her prescribed identification card, while on duty.	1 <sup>st</sup> Offense - Warn 2 <sup>nd</sup> Offense - \$20 3 <sup>rd</sup> Offense - \$35