

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7 some rules in Chapter 402 need to be repealed, added, or amended, actions which will be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

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

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

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

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

§402.100 – Definitions

§402.101 – Advisory Opinions

§402.102 – Bingo Advisory Committee

§402.103 – Training Program

§402.104 – Delinquent Obligations

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

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

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

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

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

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

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

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

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

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

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

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

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

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

8 §402.200 – General Restrictions on the Conduct of Bingo

9 §402.201 – Prohibited Bingo Occasion

10 §402.202 – Transfer of Funds

11 §402.203 – Unit Accounting

12 §402.204 – Prohibited Price Fixing

13 §402.205 – Unit Agreements

14 §402.210 – House Rules

15 §402.211 – Other Games of Chance

16 §402.212 – Promotional Bingo

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

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

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

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

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

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

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

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

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

22 §402.300 – Pull-Tab Bingo

23 §402.301 – Bingo Card/Paper

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9 §402.500 – General Records Requirements

10 §402.501 – Charitable Use of Net Proceeds

11 §402.502 – Charitable Use of Net Proceeds Recordkeeping

12 §402.503 – Bingo Gift Certificates

13 §402.504 – Debit Card Transactions

14 §402.505 – Permissible Expense

15 §402.506 – Disbursement Records Requirements

16 §402.511 – Required Inventory Records

17 §402.514 – Electronic Fund Transfers

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

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

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

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

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

9 §402.600 – Bingo Reports and Payments

10 §402.601 – Interest on Delinquent Tax

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

12 §402.603 – Bond or Other Security

13 §402.604 – Delinquent Purchaser

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

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

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

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

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

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

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

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

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

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

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

7 §402.700 – Denials; Suspensions; Revocations; Hearings

8 §402.701 – Investigation of Applicants for Licenses

9 §402.702 – Disqualifying Convictions

10 §402.703 – Audit Policy

11 §402.705 – Inspection of Premises

12 §402.706 – Schedule of Sanctions

13 §402.707 – Expedited Administrative Penalty Guideline

14 §402.708 – Dispute Resolution

15 §402.709 – Corrective Action

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

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

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

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

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

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

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

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

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

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

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

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