



INTEROFFICE MEMO

Gary Grief, Executive Director

Alfonso D. Royal III, Charitable Bingo Operations Director

To: J. Winston Krause, Chairman
Carmen Arrieta-Candelaria, Commissioner
Peggy A. Heeg, Commissioner
Doug Lowe, Commissioner
Robert Rivera, Commissioner

From: Bob Biard, General Counsel *RJB*

Date: July 11, 2016

Re: Proposed adoption of amendments to bingo rules at 16 TAC §§402.103, 402.200, 402.203, 402.205, 402.210, 402.300, 402.301, 402.303, 402.324, 402.325, 402.400, 402.404, 402.407, 402.411, 402.420, 402.424, 402.451, 402.500, 402.504, 402.506, 402.511, 402.514, 402.600, 402.602, 402.603, 402.703, 402.706, 402.707, and 402.708; and new §402.413

Commission staff recommends adoption of amendments to the 29 referenced bingo rules and one proposed new rule, with changes to the proposed text of the amendments as published in the April 29, 2016 issue of the Texas Register (41 TexReg 3050), and without changes to the text of the new rule (41 TexReg 3067). The proposed amendments are a result of the Commission's recent rule review and stakeholder meetings between Commission staff and various representatives of the bingo community.

The more significant proposed amendments include changes to the manner in which bonds are maintained by licensees, changes to the manner in which pull-tab bingo tickets are sold and played, the removal of obsolete references to the payment of the gross rentals tax, and, in response to the Sunset Commission's recommendations, changes to the chart listing the most common violations of the Bingo Enabling Act/Commission rules and the sanctions generally assessed for those violations. The purpose of proposed new rule 402.413 is to implement Texas Occupations Code Chapter 55, which requires state agencies that issue occupational licenses to adopt rules and policies to streamline the licensing of active duty military personnel, their spouses, and military veterans.

Nine commenters appeared at a May 11 public comment hearing, and seven commenters submitted written comments (four of whom appeared at the hearing). A summary of comments and the Commission's proposed responses are set forth in the preamble following this memorandum. In response to comments, staff proposes nine additional changes to the proposal on the 29 existing rules:

- Delete the requirement for a conductor organization to maintain logs for bingo ball, console, and flashboard inspections (§402.200(b)(3) and (b)(5)).

- Delete the requirement for a conductor organization to maintain and make available for review a copy of the Bingo Enabling Act and the Charitable Bingo Rules (§402.200(h)(1)).
- Clarify that any number of prizes of \$50 or less may be awarded in a single bingo game without counting towards the \$2500 prize cap per bingo occasion, regardless of whether the prize announced for the game is more than \$50. This clarification was requested by State Rep. Senfronia Thompson, as well as several industry representatives (§402.200(n)).
- Delete the word “offensive” as a criteria for the Commission to reject proposed artwork for pull-tab bingo tickets, because this term is subjective and vague (§402.300(b)(3)(G)).
- Delete the word “offensive” as a criteria for the Commission to reject proposed artwork for bingo cards and papers, again because this term is subjective and vague (§402.301(b)(3)).
- Allow an organization to process a refund for a voided card-minding transaction, even if the player refuses or is unable to provide their name and signature on the transaction receipt, by so noting on the back of the receipt (§402.325(d)(3)).
- Delete the requirement for a conductor organization to include the bingo product distributor’s name and taxpayer number on the perpetual inventory of both disposable bingo cards and pull-tab bingo tickets (§402.511(d)(2) and (e)(2)).
- Delete the following sentence regarding the Commission’s determination that a licensee owes a debt to the Commission: “Failure to produce documents supporting the delinquency determination does not limit the Division’s ability to collect the debt” (§402.602(b)). As the preamble states, the Commission recognizes the agency’s obligation under Texas Government Code §403.055 to establish a debt prior to initiating collection efforts or reporting a debtor to the Comptroller of Public Accounts for a warrant hold.
- Regarding the bingo audit policy, specify that (i) an audit must commence by the fourth anniversary of the date a licensee is identified for audit; and (ii) an audit must be completed within two years from the date of the entrance conference unless the Director extends the time period and notifies the licensee of the extension (§402.703(b)(2) and (d)(2)).

The additional changes are highlighted in the applicable rule documents that follow the preamble in the notebook materials for this item. In addition, the original rule proposal is included under the last tab in the materials for this item.

Commission staff recommends making no changes to the proposed new rule, §402.413, establishing streamlined licensing procedures applicable to military service members, military veterans, and military spouses). All comments were supportive of this rule as proposed.

Recommendation: Staff recommends that the Commission adopt the proposed amendments (with changes) and the new rule.

1 The Texas Lottery Commission (Commission) adopts amendments to 16 TAC §§402.103
2 (Training Program), 402.200 (General Restrictions on the Conduct of Bingo), 402.203 (Unit
3 Accounting), 402.205 (Unit Agreements), 402.210 (House Rules), 402.300 (Pull-Tab Bingo),
4 402.301 (Bingo Card/Paper), 402.303 (Pull-tab or Instant Bingo Dispensers), 402.324 (Card-
5 Minding Systems--Approval of Card-Minding Systems), 402.325 (Card-Minding Systems--
6 Licensed Authorized Organizations Requirements), 402.400 (General Licensing Provisions),
7 402.404 (License and Registry Fees), 402.407 (Unit Manager), 402.411 (License Renewal),
8 402.420 (Qualifications and Requirements for Conductor's License), 402.424 (Amendment of a
9 License by Electronic Mail, Telephone or Facsimile), 402.451 (Operating Capital), 402.500
10 (General Records Requirements), 402.504 (Debit Card Transactions), 402.506 (Disbursement
11 Records Requirements), 402.511 (Required Inventory Records), 402.514 (Electronic Fund
12 Transfers), 402.600 (Bingo Reports and Payments), 402.602 (Waiver of Penalty, Settlement of
13 Prize Fees, Rental Tax, Penalty and/or Interest), 402.603 (Bond or Other Security), 402.703
14 (Audit Policy), 402.706 (Schedule of Sanctions), 402.707 (Expedited Administrative Penalty
15 Guideline), and 402.708 (Dispute Resolution), with changes to the proposed text as published in
16 the April 29, 2016 issue of the *Texas Register* (41 TexReg 3050).

17 The adopted rule amendments are a result of both the Commission's recent review of the
18 Charitable Bingo Operations Division's (CBOD) rules conducted in accordance with Texas
19 Government Code §2001.039, and several stakeholder meetings between Commission staff and
20 various representatives of the bingo community. The Commission solicited from these
21 representatives any proposed rule changes desired by the bingo community, and the proposed
22 changes were discussed at length in the meetings. Many (but not all) of the bingo community's
23 proposed changes are reflected in this rulemaking adoption, including certain changes noted

1 below made in response to public comments, as are certain other changes identified in the rule
2 review and/or desired by the Commission.

3 A public comment hearing was held on Wednesday, May 11, 2016 at 10:00 a.m., at 611
4 E. 6th Street, Austin, Texas 78701. The following persons commented at the hearing in support
5 of some, and in opposition to some, of the proposed amendments: Kimberly L. Kiplin for
6 Department of Texas, Veterans of Foreign Wars (VFW); Stephen Fenoglio for Texas Charity
7 Advocates and the members of over 350 other charitable and business organizations involved in
8 charitable bingo (TCA); Steve Bresnen for the Bingo Interest Group (BIG); Sharon Ives for Fort
9 Worth Bookkeeping (FWB) (generally supporting the comments of the TCA and the BIG); Mark
10 Clark for the AMVETS (for and against portions of §§402.210, .325, and .703 only). In
11 addition, Will Martin for the American Legion for the State of Texas and Conservative Texans
12 for Charitable Bingo commented in opposition to §402.404; Charles Hutchings for the AMVETS
13 commented in opposition to portions of §402.200; Richard Bunkley for Littlefield Corporation
14 commented in opposition to portions of §§402.200 and .300; and Melodye Green for Everman
15 Jaycees commented in opposition to §402.602. At the hearing, the TCA provided a written side-
16 by-side comparison of the TCA's recommended changes to certain rules (§§402.200, .210, .300,
17 .325, .400, .411, .511, .600, .602, .703, .706, .707, and .708.), and the TCA and the BIG
18 generally requested the inclusion of any of the proposed rule language in the comparison that
19 was not included (in substance) in the Commission's proposal.

20 The Commission also received written follow-up comments on the proposed amendments
21 from the VFW, the TCA, the BIG, and FWB; as well as written comments from State
22 Representative Senfronia Thompson regarding §402.200(n), Patricia Greenfield for Greenfield
23 Bingo Services (seeking clarification to §402.300(g)(2)), and Mary B. Magnuson for the

1 National Association of Fundraising Ticket Manufacturers (NAFTM) (in support of the proposed
2 amendments to §402.300(b) and (d)(13)(D)). The public comments and the Commission's
3 responses are summarized below.

4 §402.103 (Training Program): The amendment to §402.103 removes an obsolete reference to the
5 "Bingo Bulletin," which is no longer published.

6 COMMENT SUMMARY: The VFW supports the proposed amendments.

7 COMMISSION RESPONSE: No changes will be made in response to this comment.

8 §402.200 (General Restrictions on the Conduct of Bingo): The amendments to §402.200 affect
9 the general conduct of bingo. First, the amendments require bingo conductors to make available
10 upon request the written procedure that addresses equipment malfunctions and improper calls or
11 placements. Next, the amendments clarify that bingo cards may never be reserved for a particular
12 player. The amendments also permit bingo conductors to value bingo equipment awarded as
13 bingo prizes at the price actually paid for the equipment. The amendments also allow a bingo
14 conductor to designate more than one individual as the bingo operator. The amendments also
15 require a conductor's bingo caller to announce prior to the start of a bingo game the pattern
16 needed to win the game and the prize(s), unless the prize amount is based on sales or attendance,
17 in which case the prize must be announced prior to the end of the game. Finally, the amendments
18 clarify that a bingo occasion is considered to have occurred on the date on which the occasion
19 began.

20 COMMENT SUMMARY: The VFW supports the proposed amendments to subsections
21 402.200(e), (f), (h)(3), (i), (k)(4), and (o). The BIG supports the proposed amendments to
22 subsections 402.200(b)(6), (e), (f), (i), (k)(4), and (o).

23 COMMISSION RESPONSE: No changes will be made in response to these comments.

1 COMMENT SUMMARY: The TCA, the VFW, the BIG, FWB, and Mr. Hutchings
2 (AMVETS) propose eliminating the requirement in subsections (b)(3) and (b)(5) for a conductor
3 organization to maintain a bingo ball log, and in subsection (b)(5) for a conductor to maintain a
4 console and flashboard inspection log. The VFW and the BIG stated the logs are unnecessary
5 and of no regulatory benefit, add a record-keeping burden to the organizations, and set up a
6 “trap” for an organization to be found noncompliant in an audit.

7 COMMISSION RESPONSE: The Commission agrees with these comments, and has
8 deleted the referenced requirements from the adopted rule changes.

9 COMMENT SUMMARY: The VFW requests clarification that the proposed amendment
10 to subsection (b)(6) (requiring an organization to make its procedures on addressing problems
11 during a bingo occasion available to players upon request) is satisfied if an organization posts
12 these procedures in the hall. The TCA requests deletion of the proposed language, stating such a
13 requirement does not serve a regulatory purpose.

14 COMMISSION RESPONSE: No changes will be made in response to these comments.
15 In response to the VFW’s comments, the Commission clarifies that bingo conductors may
16 comply with this requirement by posting their procedures on addressing problems in a
17 conspicuous place at the bingo hall. The Commission disagrees with the TCA’s comments, and
18 believes the proposal to make dispute procedures available to players (as clarified in this
19 response) will improve transparency regarding such procedures to bingo hall patrons.

20 COMMENT SUMMARY: The TCA, the BIG, and Mr. Hutchings (AMVETS) request
21 that the Commission add to the list of merchandise bingo prizes under subsection (f), a raffle
22 ticket conforming to the Charitable Raffle Act (Texas Occupations Code Chapter 2002). At the

1 public comment hearing, the TCA presented information regarding the potential revenue benefit
2 to charities associated with offering raffle tickets as bingo prizes.

3 COMMISSION RESPONSE: No changes will be made in response to these comments.
4 In a 2002 Texas Attorney General Opinion to then-Senator Frank Madla (Opinion No. JC-480),
5 the Attorney General opined (at page 9), “[A]lthough the Bingo Enabling Act, Tex. Occ. Code
6 Ann. ch. 2001 (Vernon 2002), and the Charitable Raffle Enabling Act, *id.* ch. 2002, might not
7 expressly prohibit the award of a raffle ticket as a prize in a bingo game, the award of a raffle
8 ticket as a bingo prize would violate section 47.03 of the Penal Code, if the bingo conductor acts
9 knowingly or intentionally.” While the Commission appreciates the commenters’ position, the
10 Commission will follow the advice of the Attorney General until such time as Opinion No. JC-
11 480 is modified or overruled by a subsequent Attorney General opinion, statutory amendment, or
12 judicial decision. (*See* Attorney General Letter Opinion No. 93-80 (1993) at 1.)

13 COMMENT SUMMARY: The TCA recommended adding language in subsection (f)
14 (regarding merchandise prizes) stating, “the prize fees paid shall be based upon the cost to the
15 licensed authorized organizations.”

16 COMMISSION RESPONSE: No changes will be made in response to this comment.
17 Prize fees paid must be based either on the current retail price or, if applicable, the actual price
18 paid by the licensed authorized organization and supported by a receipt or other documentation.

19 COMMENT SUMMARY: The TCA recommends deleting subsection (h)(1), which
20 requires a conductor organization to obtain, maintain, keep current, and make available for
21 review to any person upon request a copy of the Bingo Enabling Act and the Charitable Bingo
22 Administrative Rules. The TCA stated there is no comparable requirement at several other

1 Texas state agencies, that any interested person can obtain these items via the Internet, and that
2 lottery licensees are not subject to such a requirement.

3 COMMISSION RESPONSE: The Commission agrees with this comment and has
4 deleted the referenced requirement from the adopted rule.

5 COMMENT SUMMARY: The VFW, the TCA, the BIG, FWB, and Mr. Hutchings
6 (AMVETS) propose eliminating the requirement of a game schedule in subsections (h)(4) and
7 (h)(5). The VFW stated an organization should be allowed to make its own business decision
8 regarding game schedules, and requests subsection (h)(4) be revised to say: "The charity must
9 keep a record of all items sold and prizes paid", and subsection (h)(5) be revised to reflect that if
10 a licensed authorized organization uses a game schedule, it may amend the schedule during the
11 bingo occasion.

12 COMMISSION RESPONSE: No changes will be made in response to these comments.
13 The written schedule is used by patrons to inform them of the costs of games, the games being
14 played, and the prizes to be awarded. CBOD staff uses this information for audit purposes to
15 provide assurance that sales and prizes are accurately and completely reported by licensees.
16 Additionally, the game schedule requirement in this rule was only recently adopted (effective
17 January 2014), after consulting with industry representatives.

18 COMMENT SUMMARY: State Representative Senfronia Thompson, the VFW, the
19 TCA, the BIG, Littlefield Corporation, and Mr. Hutchings (AMVETS) request that subsection
20 (n) be revised to make it clear that any number of prizes of \$50 or less may be awarded in a
21 single bingo game without such prizes counting towards the \$2500 prize cap per bingo occasion,
22 regardless of whether the prize announced for the game was more than \$50. Rep. Thompson
23 stated the subsection as currently written is inconsistent with the language and intent of

1 §2001.420(b)(2) of the Texas Occupations Code, a view that was shared by the other
2 commenters. This statutory provision was enacted pursuant to H.B. 394 in the 83rd Texas
3 Legislature, Regular Session, legislation that Rep. Thompson sponsored. The BIG submitted
4 proposed language to amend subsection (n), which Rep. Thompson urged the Commission to
5 adopt to bring subsection (n) into conformity with the statute. The TCA also supports the BIG's
6 proposed language.

7 COMMISSION RESPONSE: The Commission is persuaded by Rep. Thompson's
8 statement, and agrees with the comments. The proposed language provided by the BIG, and
9 supported by Rep. Thompson and the TCA, has been included in the adopted rule to bring
10 subsection (n) into conformity with the statute.

11 §402.203 (Unit Accounting): The amendments to §402.203 remove obsolete references to a
12 specific form and the payment of the gross rentals tax.

13 COMMENT SUMMARY: The VFW has no objection to the proposed amendments.
14 The TCA supports the proposed amendments.

15 COMMISSION RESPONSE: No changes will be made in response to these comments.

16 §402.205 (Unit Agreements): The amendments to §402.205 clarify that a bingo bookkeeper may
17 only be a business contact for a commercial lessor and a designated agent for an accounting unit
18 if the bookkeeper is not an employee of the commercial lessor. The amendments also clarify that
19 when an organization joins an accounting unit and transfers bingo equipment and supplies to that
20 unit, the written inventory of that equipment and supplies must include all pull-tab tickets.

21 COMMENT SUMMARY: The VFW and the TCA support the proposed amendment in
22 subsection (f)(2). The VFW has no objection to the proposed amendments in subsections (g)(7)
23 and (i).

1 COMMISSION RESPONSE: No changes will be made in response to these comments.
2 §402.210 (House Rules): The amendments to §402.210 add a requirement that a bingo
3 conductor's house rules be posted at the bingo premises in a location that is easily accessible to
4 all patrons.

5 COMMENT SUMMARY: The VFW, FWB, and Mr. Clark (AMVETS) request
6 clarification of the new phrase “easily accessible to all patrons” in subsection (e), stating this
7 term is subject to interpretation and could be construed differently by different bingo inspectors.
8 The BIG similarly expressed concern about uneven enforcement of the proposed “easily
9 accessible” requirement by CBOD staff. The TCA and FWB disagree with this proposed
10 amendment and recommend its deletion.

11 COMMISSION RESPONSE: No changes will be made in response to these comments.
12 However, the Commission clarifies that under this amendment bingo conductors are required to
13 post their house rules in a conspicuous place at the bingo hall. The Commission disagrees with
14 the TCA’s comments, and believes the proposal to make house rules easily accessible to all
15 patrons (as clarified in this response) will improve transparency regarding the conduct of bingo
16 to bingo hall patrons.

17 §402.300 (Pull-Tab Bingo): The amendments to §402.300 affect pull-tab bingo games. First, the
18 amendments clarify that instant pull-tab tickets may be sold over multiple bingo occasions, and a
19 winning instant ticket may only be claimed during the bingo occasion(s) where tickets from the
20 winning ticket's deal are sold. Regarding event pull-tab tickets, the amendments clarify that the
21 event which determines the ticket winner(s) must occur during the same bingo occasion at which
22 the first event pull-tab ticket from the deal was sold. Further, a winning event pull-tab ticket may
23 only be claimed during the bingo occasion at which the event occurred. However, the

1 amendments include exceptions that would permit licensed authorized organizations that are unit
2 members, and organizations that conduct bingo on consecutive occasions within one 24-hour
3 period, to hold an event and pay a winning ticket at certain other bingo occasions. The
4 amendments will still require certain information, including ticket price and game name, to be
5 printed on a pull-tab ticket, but the amendments abolish the requirement that the information be
6 printed on a specific side of the ticket. The amendments also provide a consistent basis by which
7 to determine the value of merchandise prizes. The amendments also remove the absolute
8 prohibition on pull-tab tickets displaying images of alcoholic beverages and weapons, but the
9 amendments add a prohibition on the display of violent acts. The amendments also allow the
10 Commission to determine how many pull-tab tickets a manufacturer must submit for testing,
11 which codifies current practice. The amendments also require manufacturers to include with a
12 pull-tab ticket deal instructions on at least one permissible method to play the game. The
13 amendments also alter the distance required between numbers/symbols and the window
14 perforations on a pull-tab ticket. Finally, the amendments clarify the definitions of instant and
15 event pull-tab tickets and no longer require bingo conductors to include distributor information
16 in their pull-tab ticket purchase log.

17 COMMENT SUMMARY: The VFW supports the proposed amendments regarding the
18 design of the pull-tab because they will allow for more flexibility in ticket design, and the
19 proposed amendment in subsection (a)(8) that allows bingo equipment to be awarded as pull-tab
20 bingo prizes. The NAFTM commented in support of subsection (b) regarding Commission
21 approval of pull-tab bingo tickets and subsection (d)(13)(D) regarding manufacturing standards
22 for pull-tab bingo tickets. The TCA supports the proposed amendments to subsection (d)(15).

23 COMMISSION RESPONSE: No changes will be made in response to these comments.

1 COMMENT SUMMARY: The TCA, the BIG, and Littlefield Corporation request that
2 the Commission add to the definition of “Merchandise” used as a pull-tab prize under subsection
3 (a)(8), a raffle ticket conforming to the Charitable Raffle Act (Texas Occupations Code Chapter
4 2002). The BIG commented that the Texas Occupations Code Chapter 2001 (Bingo Enabling
5 Act) grant of rulemaking authority to the Commission over pull-tab bingo (at §2001.408 of the
6 Act) is sufficient for the Commission to authorize raffle tickets as a pull-tab bingo prize.

7 COMMISSION RESPONSE: No changes will be made in response to these comments.
8 As discussed in the response to comments to §402.200 above, the Attorney General in Opinion
9 No. JC-480 opined that “the award of a raffle ticket as a bingo prize would violate section 47.03
10 of the Penal Code, if the bingo conductor acts knowingly or intentionally.” While the
11 Commission appreciates the commenters’ position, the Commission will follow the advice of the
12 Attorney General until such time as Opinion No. JC-480 is modified or overruled by a
13 subsequent Attorney General opinion, statutory amendment, or judicial decision.

14 COMMENT SUMMARY: The VFW and the TCA oppose the proposed use of the word
15 “offensive” in subsection (b)(3)(G) in connection with Commission approval of pull-tab artwork,
16 because the term is subjective, vague, and does not provide meaningful guidance on what is
17 considered “offensive”. The TCA additionally requests that the Commission provide a process
18 for an expedited challenge to the Commission’s rejection of proposed artwork.

19 COMMISSION RESPONSE: The Commission agrees with the comments regarding the
20 word “offensive”, which has been deleted from the adopted rule changes. In light of this change,
21 the Commission declines to expressly provide a specific process for an expedited challenge to
22 the Commission’s rejection of proposed artwork.

1 COMMENT SUMMARY: The TCA and the BIG request that the rule expressly allow
2 the use of bar code technology on pull-tab bingo tickets (referencing subsections (d)(10) and
3 (d)(13)). The TCA stated this would greatly assist with inventory control.

4 COMMISSION RESPONSE: No changes will be made in response to these comments.
5 Nothing in the Bingo Enabling Act or Commission rules prevents the use of bar code technology
6 for ticket sale or inventory purposes.

7 COMMENT SUMMARY: The BIG expressed concern that it is not clear that subsection
8 (e) maintains an organization's existing authority to sell pull-tabs during an intermission. The
9 BIG further cautioned that, regardless of whether there are scheduled intermissions during a
10 bingo occasion, the Commission should be careful not to restrict conductor organizations from
11 conducting activities that are currently authorized.

12 COMMISSION RESPONSE: No changes will be made in response to these comments.
13 The Commission notes that bingo occasions currently do not include formal intermissions
14 (statutory references to required intermissions in the Bingo Enabling Act were deleted in the 81st
15 Regular Legislative Session in 2009) and bingo games may be conducted back-to-back during a
16 bingo occasion. The Commission clarifies that pull-tab and event tab bingo tickets may be sold
17 at any time during an authorized bingo occasion.

18 COMMENT SUMMARY: With respect to subsection (g)(2) regarding records, the VFW
19 requests confirmation that, so long as the required information is captured in a schedule that then
20 rolls into the cash report, a conductor organization is in compliance with this requirement; that
21 the Daily Schedule of Prizes is part of the Occasion Cash Report; and that including the form
22 number on the Daily Schedule of Prizes satisfies the requirement of the form number being on
23 the Occasion Cash Report. The VFW noted that, if the foregoing does not satisfy the

1 requirement, it will require some organizations to incur a cost to modify their reporting format.
2 Greenfield Bingo Services similarly requests such confirmation.

3 COMMISSION RESPONSE: The Commission confirms that the description of records
4 as provided by the VFW will satisfy the requirements of subsection (g)(2).

5 COMMENT SUMMARY: The TCA proposed language for subsection (h)(8) deleting
6 the requirement that a multiple part event or multiple part instant ticket must be broken apart and
7 sold in sections by a licensed authorized organization. The TCA's proposed language would
8 require only that the two or more sections of the ticket be separated by a perforation.

9 COMMISSION RESPONSE: No changes will be made in response to this comment.
10 The requirement to sell each part of a multiple part ticket separately ensures that the prize
11 amount does not exceed the \$750 per game prize cap.

12 COMMENT SUMMARY: The BIG urged the Commission to include language allowing
13 video confirmation of pull-tab tickets.

14 COMMISSION RESPONSE: No changes will be made in response to this comment.
15 The Commission recently considered the issue of allowing video confirmation of pull-tab tickets
16 in a 2014 rulemaking proceeding; and, after receiving public comment, declined to amend the
17 rule. The Commission does not believe circumstances have changed since the 2014 proceeding
18 to warrant further consideration of such an amendment at this time.

19 §402.301 (Bingo Card/Paper): The amendments to §402.301 remove the absolute prohibition on
20 bingo cards and paper displaying images of alcoholic beverages and weapons.

21 COMMENT SUMMARY: The VFW and the TCA oppose the proposed use of the word
22 "offensive" in subsection (b)(3) in connection with Commission approval of bingo card/paper
23 artwork, because the term is subjective, vague, and does not provide meaningful guidance on

1 what is considered “offensive”. In addition, the TCA requests the right to an expedited challenge
2 of the Commission’s rejection of proposed artwork that contains language or text the
3 Commission staff finds objectionable.

4 COMMISSION RESPONSE: The Commission agrees with the comments regarding the
5 word “offensive”, which has been deleted from the adopted rule changes. In light of this change,
6 the Commission declines to expressly provide a specific process for an expedited challenge to
7 the Commission’s rejection of proposed artwork.

8 §402.303 (Pull-tab or Instant Bingo Dispensers): The amendments to §402.303 remove the
9 requirement that, when pull-tab bingo tickets are sold from a dispenser, the entire deal or
10 package of pull-tab bingo tickets must be offered for sale. The amendments also remove the
11 requirement that manufacturers, distributors, and conductors maintain logs related to pull-tab
12 bingo ticket dispensers. The proposed amendments also delete an obsolete reference to the
13 Problem Gamblers' Help Line.

14 COMMENT SUMMARY: The VFW and the TCA have no objection to the deletion of
15 subsection (b)(6), which removes obsolete language; and support the deletion of the language in
16 subsection (e) regarding records. The TCA also supports the deletions in subsection (c)(4)
17 regarding the sale of pull-tab tickets and instant bingo cards.

18 COMMISSION RESPONSE: No changes will be made in response to these comments.
19 §402.324 (Card-Minding Systems-Approval of Card-Minding Systems): The amendments to
20 §402.324 remove both the requirement that a manufacturer notify the Commission in writing
21 before submitting a card-minding system to an independent testing facility for review and the
22 requirement that the independent testing facility communicate with the manufacturer and/or
23 Commission if any testing questions arise. The amendments also require the Commission to

1 notify both the manufacturer and the independent testing facility whether the Commission has
2 approved or disapproved a specific card-minding system.

3 COMMENT SUMMARY: The VFW and the TCA support the proposed amendments.

4 COMMISSION RESPONSE: No changes will be made in response to these comments.

5 §402.325 (Card-Minding Systems-Licensed Authorized Organizations Requirements): The
6 amendments to §402.325 no longer require a player seeking a refund from a voided transaction
7 to provide their address and telephone number. The amendments also remove the prohibition on
8 reserving card-minding devices for players.

9 COMMENT SUMMARY: Mr. Clark (AMVETS) commented in support of the proposed
10 changes to this rule. The VFW, the TCA, and the BIG support elimination (in old subsection
11 (k)) of the prohibition on reserving card-minding devices for players.

12 COMMISSION RESPONSE: No changes will be made in response to these comments.

13 COMMENT SUMMARY: The VFW supports elimination of the requirement in
14 subsection (d)(3) that a player be required to provide their address and phone number (in
15 addition to name, signature, and amount of the refund) to obtain a refund for a void transaction.
16 The TCA and FWB recommend adding the words “Unless the player refuses” to this subsection,
17 stating sometimes players refuse or are unable to provide even their name and signature. The
18 TCA stated further that this requirement serves no regulatory purpose.

19 COMMISSION RESPONSE: In response to the comments of the TCA and FWB, the
20 Commission has added language to subsection (d)(3) that, if a player seeking a refund refuses or
21 is unable to provide the required information, the organization shall so note on the back of the
22 receipt.

1 §402.400 (General Licensing Provisions): The amendments to §402.400 remove obsolete
2 references to a specific schedule and replace it with the proper form name.

3 COMMENT SUMMARY: The TCA proposed language in subsection (a) requiring the
4 Commission to “review its applications, application instructions, and ancillary schedules
5 annually and update them, as applicable.”

6 COMMISSION RESPONSE: No changes will be made in response to this comment.
7 The Commission declines to prescribe by rule a schedule to govern internal management
8 processes such as updating agency forms. However, the CBOD continually evaluates the
9 efficacy of its forms, and welcomes industry suggestions for any improvements to them.

10 COMMENT SUMMARY: The VFW and the TCA request that subsection (a)(3) be
11 deleted. Subsection (a)(3) provides that an application is incomplete if the applicable license fee
12 is not provided. The commenters stated the CBOD has taken the position an application will be
13 returned unprocessed if it is incomplete, which causes a problem if there is a legitimate dispute
14 regarding the fee amount. The VFW further stated the CBOD’s practice of returning applications
15 unprocessed if they are incomplete is inconsistent with subsection (e), which provides that the
16 Commission will notify an applicant if an application is incomplete.

17 COMMISSION RESPONSE: No changes will be made in response to this comment.
18 The Commission understands this comment refers to past debt collection efforts resulting from
19 the CBOD ledger reconciliation project, and clarifies that any future debt collection efforts will
20 be pursued separately from, and not tied to, the license renewal process. Further, the
21 Commission recognizes the agency’s obligation under Texas Government Code §403.055 to
22 establish a debt prior to initiating collection efforts or reporting a debtor to the Comptroller of
23 Public Accounts for a warrant hold.

1 COMMENT SUMMARY: The VFW and the TCA proposed language for subsections
2 (d), (e), and (n) that would impose deadlines on the Commission's review of license applications,
3 which the Commission did not include in its proposal. Each commenter requested the language
4 they submitted be included in the adopted rule. The TCA commented specifically on its proposed
5 language in subsection (d) requiring the Commission to notify the applicant of an original
6 application within three business days after receiving the application of any key missing
7 information, and to notify the applicant within 14 days if any additional information is required.

8 COMMISSION RESPONSE: No changes will be made in response to these comments.
9 The Commission declines to prescribe by rule internal deadlines to govern the CBOD's
10 application and licensing process. However, the CBOD will continue to review its process to
11 identify potential improvements and streamlining opportunities, and welcomes industry
12 suggestions. Further, the Commission notes that §2001.304 of the Bingo Enabling Act
13 (Temporary Authorization) requires the Commission to issue a temporary authorization for the
14 activity requested if a license for such activity is not issued or denied before the 31st day after
15 the earliest date on which each of the following has occurred: (1) the filing of an application for
16 the license; (2) the payment of the proper license fee; (3) the filing of a copy of a tax exemption
17 statement issued by the Internal Revenue Service under §501(c), Internal Revenue Code of 1986,
18 if required; and (4) the completion of a criminal background investigation.

19 COMMENT SUMMARY: The TCA proposed, and FWB supported, language for
20 subsection (k) to allow a conductor organization to place a regular license in administrative hold
21 status at any time.

22 COMMISSION RESPONSE: No changes will be made in response to these comments.
23 The restriction on placing a license in administrative hold only at the time of license renewal was

1 only recently adopted (effective February 2015), after consulting with industry representatives.
2 The Commission does not believe circumstances have changed since the 2015 adoption to
3 warrant further consideration of such an amendment at this time.

4 COMMENT SUMMARY: The TCA commented on subsection (m) that the Commission
5 staff can, and sometimes does, refuse to discuss a licensing matter with a licensed attorney who
6 has filed paperwork stating that the attorney represents the charitable organization, but instead
7 requires the attorney to submit a required form before the staff will discuss substantive matters.
8 The TCA stated no other state agency has this requirement and that it is over-regulation that
9 serves to hinder the licensee.

10 COMMISSION RESPONSE: No changes will be made in response to this comment. To
11 ensure that a person is authorized to act on behalf of an organization, the CBOD allows for
12 authorized representatives only as requested by the licensee/applicant organization itself.

13 §402.404 (License and Registry Fees): The amendments to §402.404 remove obsolete language,
14 and shorten the time period when a bingo worker registry renewal application may be submitted
15 (from 90 days to 60 days before the current expiration date).

16 COMMENT SUMMARY: Mr. Martin commented in opposition to existing language in
17 the rule that sets the amount of a license fee for conducting bingo based on the licensee's annual
18 gross receipts. The commenter stated this fee structure unfairly penalizes organizations that do
19 well in business and rewards those that do not do well, and urged the Commission to reduce
20 license fees to a reasonable rate, such as, a \$100 per year across-the-board fee for all conductor
21 organizations. The TCA also commented that conductor's licenses are too expensive, given the
22 declining number of licensees that are being licensed by the Commission. The TCA stated that

1 bingo is not an expanding business due to competition from the lottery and other legal and illegal
2 entertainment options.

3 COMMISSION RESPONSE: No changes will be made in response to these comments.
4 The tiered structure which the Commission follows to set conductor license fees based on a
5 licensee's annual gross receipts is required by §2001.104(a) of the Bingo Enabling Act, which
6 also sets a minimum fee the Commission must charge for each identified class of license.
7 Although the statute grants the Commission some authority to determine the actual fee amount
8 for each class of license identified in the statute, the tiered fee structure Mr. Martin opposes is set
9 in the statute and would require a legislative amendment to change. The Commission will
10 continue to evaluate the actual fee amounts set by Commission rule to ensure they are not more
11 than an amount reasonable to defray administrative costs.

12 COMMENT SUMMARY: The VFW and the TCA requested that subsection (h)(2)(B),
13 Refunds, be amended to make it clear that the reference to "any other outstanding bingo
14 liabilities to the State" means liabilities that have been established, not simply by virtue of a
15 Notice of Outstanding Liabilities Due being sent.

16 COMMISSION RESPONSE: No changes will be made in response to these comments.
17 The Commission recognizes the agency's obligation under Texas Government Code §403.055 to
18 establish a debt prior to initiating collection efforts or reporting a debtor to the Comptroller of
19 Public Accounts for a warrant hold.

20 §402.407 (Unit Manager): The amendments to §402.407 delete the formula used to determine
21 the bond amounts for unit managers. The new formula is located in §402.603.

22 COMMENT SUMMARY: The VFW and the TCA have no objection to the proposed
23 amendments.

1 COMMISSION RESPONSE: No changes will be made in response to these comments.
2 §402.411 (License Renewal): The amendments to §402.411 shorten the time period when a
3 license renewal application may be submitted (from 90 days to 60 days before the current
4 expiration date).

5 COMMENT SUMMARY: FWB requested that the Commission allow renewed licenses
6 to be printed on demand.

7 COMMISSION RESPONSE: No changes will be made in response to these comments.
8 The Commission clarifies that, under current practice, the bingo chairperson is authorized to
9 print licenses on demand.

10 COMMENT SUMMARY: The VFW and the TCA (supported by FWB) proposed
11 language to subsections (b) and (l) to provide that a renewal application is not considered
12 incomplete based on a failure to submit the license renewal fee or a portion thereof, and to
13 prohibit delaying issuance of a license renewal based on an alleged debt that has not been finally
14 established. The TCA provided several example regarding claims of debts owed to the state
15 without supporting documentation. The VFW stated it is the CBOD's position that it will return
16 an application unprocessed if it is incomplete, and that the problem with this approach is there
17 are hard deadlines for license renewals. The VFW stated that missing a renewal deadline can
18 cause either additional fees, or, in the case of a grandfathered lessor license, an outright loss of
19 the license.

20 COMMISSION RESPONSE: No changes will be made in response to these comments.
21 The Commission understands these comments refer to past debt collection efforts resulting from
22 the CBOD ledger reconciliation project, and clarifies that any future debt collection efforts will
23 be pursued separately from, and not tied to, the license renewal process. Further, the

1 Commission recognizes the agency's obligation under Texas Government Code §403.055 to
2 establish a debt prior to initiating collection efforts or reporting a debtor to the Comptroller of
3 Public Accounts for a warrant hold.

4 COMMENT SUMMARY: The VFW opposes the proposed amendment to subsection
5 (m) that shortens the time within which the Division will accept a renewal application, currently
6 from 90 days to proposed 60 days.

7 COMMISSION RESPONSE: No changes will be made in response to this comment. As
8 explained in the preamble to the proposal, this proposed change aligns the rule with the
9 requirements of the bingo operating service system (BOSS), the computer system that supports
10 the CBOD regulatory program. This change also reflects current CBOD operating practices.

11 §402.420 (Qualifications and Requirements for Conductor's License): The amendments to
12 §402.420 only alter the attached figure. The amendments remove obsolete references to form
13 names and replace them with the proper names, and correct a spelling error.

14 COMMENT SUMMARY: The VFW and the TCA request that the Commission include
15 language in the chart, which is part of the rule, to clarify that a fraternal/non-profit organization
16 must have had at least three years of tax-exempt status before filing the application. The VFW
17 stated their belief the CBOD has recently applied a new interpretation of the Bingo Enabling Act
18 license eligibility statutes for fraternal organizations, and that the prior interpretation was that an
19 organization must have obtained tax exempt status prior to the filing of its application to conduct
20 bingo. The VFW stated the Commission should put all interested persons on notice of its
21 interpretation of license eligibility criteria so applicants don't pay a substantial license fee to be
22 denied because of a new interpretation.

1 COMMISSION RESPONSE: No changes will be made in response to these comments.
2 The Commission notes that, at the time of this rule adoption, the issue raised in these comments
3 is the subject of a pending contested case. Further, the resolution of this issue potentially
4 impacts not only fraternal organizations, but also certain medical and veterans organizations.
5 Because this issue is being litigated, and because it affects several categories of bingo conductor
6 organizations that may not have been apprised of the issue in this proceeding, the Commission
7 declines to make the requested change to the adopted rule in this proceeding.

8 §402.424 (Amendment of a License by Electronic Mail, Telephone or Facsimile): The
9 amendments to §402.424 allow a license amendment request application to be submitted via
10 electronic mail, telephone or facsimile.

11 COMMENT SUMMARY: The VFW and the TCA have no objection to the proposed
12 amendments.

13 COMMISSION RESPONSE: No changes will be made in response to these comments.
14 §402.451 (Operating Capital): The amendments to §402.451 remove obsolete language and the
15 attached figure regarding the disbursement of any bingo account balance in excess of the bingo
16 conductor's or accounting unit's operating capital limit.

17 COMMENT SUMMARY: The VFW and the TCA have no objection to the proposed
18 amendments.

19 COMMISSION RESPONSE: No changes will be made in response to these comments.
20 §402.500 (General Records Requirements): The amendments to §402.500 clarify that any bingo
21 licensee must provide to the Commission upon request any information required to be
22 maintained by the Bingo Enabling Act or the Charitable Bingo Administrative Rules.

1 COMMENT SUMMARY: The VFW and the TCA have no objection to the proposed
2 amendments.

3 COMMISSION RESPONSE: No changes will be made in response to these comments.

4 §402.504 (Debit Card Transactions): The amendments to §402.504 require a bingo conductor to
5 provide a debit card transaction sales receipt to the purchaser only upon request. The
6 amendments also clarify that bingo conductors must maintain either an electronic or hard copy of
7 all debit card transaction sales receipts.

8 COMMENT SUMMARY: The VFW and the TCA have no objection to the proposed
9 amendments.

10 COMMISSION RESPONSE: No changes will be made in response to these comments.

11 §402.506 (Disbursement Records Requirements): The amendments to §402.506 clarify that the
12 types of records listed in subsection (b) of the rule are only examples of the types of records that
13 are acceptable to substantiate bingo expenses. The amendments also remove the requirement that
14 a bingo conductor's Cash Disbursements Journal include the conductor's or unit's name, taxpayer
15 or unit number, and the calendar quarter.

16 COMMENT SUMMARY: The VFW, the TCA, and FWB support the proposed
17 amendments. FWB specifically supports the proposed deletion of subsections (e)(2)(A)-(C)
18 (requirement to include organization or unit name, taxpayer or unit number, and calendar quarter
19 on the Cash Disbursement Journal), noting that some accounting software programs do not allow
20 a user to manipulate the programming or headers of forms to include this information.

21 COMMISSION RESPONSE: No changes will be made in response to these comments.

1 §402.511 (Required Inventory Records): The amendments to §402.511 add a requirement that a
2 bingo conductor's perpetual inventory of pull-tab bingo tickets contain the occasion date(s) that
3 the pull-tab tickets were sold.

4 COMMENT SUMMARY: The VFW supports the proposed amendment; however, under
5 subsections (d)(2) and (e)(2), the VFW, the BIG, the TCA, and FWB request deletion of the
6 requirement that the perpetual inventory of disposable bingo cards contain the distributor's name
7 and taxpayer number because this requirement is unnecessary and burdensome. The TCA
8 further requested the deletion of the following information from the perpetual inventory of pull-
9 tab bingo tickets: number of tickets per deal; number of tickets sold, missing, or damaged by
10 occasion date; and number of pull-tab tickets remaining if the deal is closed.

11 COMMISSION RESPONSE: The Commission agrees with the comments regarding the
12 bingo product distributor's name and taxpayer number, and the adopted rule deletes the
13 requirement to include this information on the perpetual inventory of both disposable bingo cards
14 (in subsection (d)(2)) and pull-tab bingo tickets (in subsection (e)(2)). The Commission declines
15 to delete the additional requested information from the perpetual inventory of pull-tab bingo
16 tickets because this ticket information is needed for CBOD audit purposes.

17 §402.514 (Electronic Fund Transfers): The amendments to §402.514 permit the bingo
18 chairperson of a bingo conductor that is part of an accounting unit to designate another
19 individual to review the accounting records and bank statements with the conductor's
20 bookkeeper.

21 COMMENT SUMMARY: The VFW supports the proposed amendments. The TCA has
22 no objection to the proposed amendments.

23 COMMISSION RESPONSE: No changes will be made in response to these comments.

1 §402.600 (Bingo Reports and Payments): The amendments to §402.600 remove obsolete
2 references to the payment of gross rental taxes. The amendments also clarify that all quarterly
3 report supplements must be submitted to the Commission in accordance with the same
4 requirements for the report itself. The amendments also require commercial lessors to include in
5 their quarterly reports information regarding property taxes paid by the lessor and reimbursed by
6 the lessee bingo conductor. Finally, the amendments require indicated quarterly report monetary
7 amount entries to be rounded to whole dollar amounts.

8 COMMENT SUMMARY: The VFW, the TCA, and FWB stated their support of many
9 of the proposed amendments to this rule. The BIG stated its support for the proposed changes
10 addressing the rounding of dollar amounts under subsection (m).

11 COMMISSION RESPONSE: No changes will be made in response to these comments.

12 COMMENT SUMMARY: The TCA recommended striking subsection (e) which allows
13 the Commission to deny or revoke a commercial lessor license if the licensee remits two
14 insufficient checks for rental tax within four quarters.

15 COMMISSION RESPONSE: The Commission's proposal deletes subsection (e) because
16 it is an obsolete reference to gross rental taxes.

17 COMMENT SUMMARY: The TCA, the BIG, and FWB support the Commission's
18 proposal in subsection (m) to allow rounding of dollar amounts for certain entries in the quarterly
19 reports.

20 COMMISSION RESPONSE: To clarify subsection (m) further, the Commission has
21 added the words "where indicated" to the end of the first sentence, so that it reads: "Quarterly
22 report entries must be rounded to whole dollar amounts, where indicated." The added language

1 is intended to clarify that only entries required to be reported as whole dollars (as indicated on
2 the report form) will be rounded.

3 COMMENT SUMMARY: The TCA stated its hope that the new references to
4 “supplements” in this rule do not mean the Commission will be creating many new forms for
5 charities to complete, and, at the public hearing, asked the Commission to explain what the term
6 “supplements” means.

7 COMMISSION RESPONSE: No changes will be made in response to these comments.
8 Any particular supplemental document that is required will depend on a licensee’s particular
9 circumstances, and the CBOD will inform the licensee of any supplemental filing requirement.

10 §402.602 (Waiver of Penalty, Settlement of Prize Fees, Rental Tax, Penalty and/or Interest): The
11 amendments to §402.602 require the Commission to notify inactive accounts that a prize fee or
12 rental tax is owed, and provide the accounts with existing documents that support the
13 delinquency determination.

14 COMMENT SUMMARY: The VFW, the TCA, the BIG, FWB, and Ms. Green (for
15 Everman Jaycees) oppose the proposed sentence in subsection (b) stating, “Failure to produce
16 documents supporting the delinquency determination does not limit the Division’s ability to
17 collect the debt.” The VFW requests that language be added to this rule that the Commission
18 may not pursue collecting on a debt it cannot establish and the Commission may not deny a
19 license application due to the Commission’s belief a debt is owed. The TCA proposed
20 alternative language to subsections (b) and (c) to address the same concern, as well as a new
21 subsection (d) that would prohibit the Commission from denying a license based on an alleged
22 delinquent tax or fee unless the debt has been established through a jeopardy determination
23 process.

1 COMMISSION RESPONSE: The Commission agrees with the comments in support of
2 deleting the referenced sentence and has deleted that sentence from the adopted rule changes, but
3 declines to make the additional requested changes. The Commission understands these
4 comments refer to past debt collection efforts resulting from the CBOD ledger reconciliation
5 project, and clarifies that any future debt collection efforts will be pursued separately from, and
6 not tied to, the license renewal process. Further, the Commission recognizes the agency's
7 obligation under Texas Government Code §403.055 to establish a debt prior to initiating
8 collection efforts or reporting a debtor to the Comptroller of Public Accounts for a warrant hold.
9 §402.603 (Bond or Other Security): The amendments to §402.603 alter and clarify the bond and
10 security requirements for bingo conductors, manufacturers, accounting units, and unit managers.
11 The bond requirement for commercial lessors to secure payment of the gross rentals tax was
12 abolished in the 84th Regular Legislative Session, therefore the amendments also remove all
13 references to commercial lessors' bond requirements.

14 COMMENT SUMMARY: The VFW does not oppose the proposed amendments in
15 principle, but asks the Commission to understand there will be a financial impact on licensees
16 who have been paying prize fees on time and currently have a zero bond amount, to now have to
17 obtain a bond, even if the bond is in the amount of \$100. The TCA provided examples of the
18 difficulty newer charities (without eight consecutive quarters of compliance history) can have in
19 obtaining the higher required bond amount.

20 COMMISSION RESPONSE: No changes will be made in response to these comments.
21 The Bingo Enabling Act requires conductor licensees to obtain a bond. After much discussion of
22 this matter in stakeholder meetings, the Commission believes requiring a nominal \$100 bond for
23 a licensee that has complied with paying their prize fees for eight consecutive quarters is a

1 reasonable and fair standard. Further, the Commission notes that the tiered bond amounts for
2 organizations that do not qualify for the \$100 bond have not changed as a result of this
3 rulemaking.

4 COMMENT SUMMARY: The TCA proposed the following language to replace the last
5 sentence in proposed subsection (a)(4)(B), to clarify that, when a new charity without a history
6 of eight consecutive quarters of compliance joins an existing accounting unit, that charity must
7 obtain its own bond and the funds of the other charities in the unit should not be used to pay for
8 it: "If another organization subsequently joins such a Unit and this organization is not covered in
9 subsection (a)(1)(C), the new organization must pay separately for its security amount; in such
10 situation, the Unit cannot pay for the security amount unless and until the new organization has
11 been licensed for eight (8) consecutive quarters with no jeopardy determination." The TCA
12 expressed its support for the other proposed changes to this rule.

13 COMMISSION RESPONSE: No changes will be made in response to this comment.
14 The Commission believes it is up to the other unit members to make the business decision in a
15 particular instance whether to pay for the new organization's security amount.

16 §402.703 (Audit Policy): The amendments to §402.703 provide that the audit fieldwork may take
17 place at the licensee's business office, bingo premises, bookkeeper's office, or accountant's
18 office, as well as at a location designated by the auditor.

19 COMMENT SUMMARY: The VFW, the BIG, the TCA, FWB, and Mr. Clark
20 (AMVETS) requested that the rule be revised to shorten the time an audit can remain open,
21 which is now 5 years. The TCA proposed language to shorten the time frame for completing an
22 audit.

1 COMMISSION RESPONSE: In response to the comments, the Commission has made
2 two changes to this rule: First, subsection (b)(2) has been modified by adding the following
3 sentence at the end to clarify the timeframe when an audit will begin: “An audit must commence
4 by the fourth anniversary of the date a licensee is identified for audit.” Second, subsection (d)(2)
5 has been modified to state that an audit “must be completed within two years from the date of the
6 entrance conference unless the Director extends the time period and notifies the licensee of the
7 extension.” Further, the Commission notes that the CBOD currently provides an estimated date
8 for issuing an audit report when it sends an audit engagement letter to a licensee.

9 COMMENT SUMMARY: The VFW, the TCA, and FWB support the amendment to
10 subsection (e) that allows field work to occur at the licensee’s business office, bingo premises,
11 bookkeeper’s office or accountant’s office instead of a location designated by the auditor.

12 COMMISSION RESPONSE: The preamble to the proposed amendments stated the
13 proposed change to subsection (e) would “require” that audit fieldwork take place at the
14 licensee’s business office, bingo premises, bookkeeper’s office, or accountant’s office,
15 suggesting that such work would not occur at any other location, including a Commission office.
16 Upon further reflection, the Commission believes it needs the flexibility, in specific instances, to
17 conduct fieldwork at a location other than those specified in the proposed amendments. Thus,
18 while the Commission intends for the CBOD staff to conduct audit fieldwork at a licensee
19 location whenever practicable, in the adopted rules the Commission has retained the ability to
20 conduct fieldwork at “a location designated by the auditor(s)”, which may include a Commission
21 office. This change essentially retains the language the Commission had proposed to delete in
22 the published proposal, in addition to the proposed new language.

1 COMMENT SUMMARY: The TCA proposed language in subsection (e) to require a
2 CBOD auditor to promptly notify a licensee if a violation is discovered during an audit or
3 inspection.

4 COMMISSION RESPONSE: No changes will be made in response to this comment. A
5 game inspection report does not contain findings of violations; its purpose is to collect relevant
6 information which later will be used by CBOD management to assess potential non-compliance
7 issues. Findings regarding non-compliance are communicated to the licensee only after the
8 relevant information has been reviewed by CBOD management, at which time the licensee will
9 have an opportunity to respond. The CBOD currently provides a licensee a copy of the report of
10 a game inspection performed on site before leaving the bingo location. The report must be
11 signed by the authorized person on staff at the bingo location prior to the auditor leaving the
12 bingo hall. Any additional notification, including potential violations found during an audit,
13 could disrupt the ongoing audit/inspection and may prompt a licensee to discard relevant
14 evidence.

15 COMMENT SUMMARY: The TCA proposed language in subsection (g)(1) requiring
16 the CBOD to provide a copy of all supporting documentation (if any) of audit findings with a
17 draft audit report, stating that the agency generally is in possession of the licensee's
18 documentation at that time.

19 COMMISSION RESPONSE: No changes will be made in response to this comment.
20 Under current practice, the CBOD provides the auditee a copy of the draft audit report three days
21 prior to the audit exit conference. All records are returned to the auditee at the exit conference,
22 at which time the audit findings are discussed. Thus, the auditee has possession of their original
23 records that are used by the auditor to support any findings. The auditee then has 20 days to

1 respond to the draft report, and may provide written comments and supporting documents to the
2 auditor. If such a response is submitted, the auditor will review and include it in the final report.

3 COMMENT SUMMARY: The TCA proposed a new subsection (h), requiring that the
4 CBOD must initiate any administrative disciplinary action against a licensee resulting from an
5 audit no later than 90 days from the date the final audit report is issued; otherwise, the CBOD
6 would be barred from initiating such an action.

7 COMMISSION RESPONSE: No changes will be made in response to this comment.
8 The Commission is mindful of the potential burden a delay in initiating an enforcement action
9 may impose on a licensee, but believes a rigid 90-day deadline would unduly restrict the
10 CBOD's discretion in determining in which instances an enforcement action is warranted.

11 §402.706 (Schedule of Sanctions): The amendments to §402.706 implement §2001.358 of the
12 Bingo Enabling Act, which requires the Commission to adopt a schedule of sanctions that
13 defines and summarizes statutory and rule violations to ensure that sanctions imposed are
14 appropriate to the violation. The amendments add to the schedule those violations that could
15 result in license suspension, revocation or denial, or bingo worker registry removal or denial.

16 COMMENT SUMMARY: The VFW, the TCA, and the BIG question, and seek
17 clarification on, the proposed language in subsection (a) suggesting that the Commission may
18 impose sanctions on non-licensees. The TCA requests the Commission to articulate its authority
19 if this is its position.

20 COMMISSION RESPONSE: No changes will be made in response to these comments.
21 The Commission clarifies that the reference to "other persons" in subsection (a) may refer either
22 to individuals listed on the Bingo Worker Registry (who are not referred to as "licensees") that
23 violate the Bingo Enabling Act or Commission rules, or other unlicensed persons engaged in the

1 unauthorized conduct of bingo-related activities. Section 2001.601 of the Bingo Enabling Act
2 states, “The commission may impose an administrative penalty against a person who violates this
3 chapter or a rule or order adopted by the commission under this chapter.” Section 2001.606 of
4 the Act further describes the Director’s authority to issue orders finding that “a person” has
5 committed a violation and assessing an administrative penalty. Under §2001.002(20) of the Act,
6 a “person” means “an individual, partnership, corporation, or other group.” Thus, the
7 Commission’s authority is not limited to assessing penalties against a licensee.

8 COMMENT SUMMARY: The VFW opposes the increased sanction of possible
9 revocation of license for a first violation of the Other Game of Chance rule (§402.211). The
10 VFW stated this penalty is harsh, and noted the Commission’s primary responsibility is to
11 administer and regulate bingo so that bingo is fairly conducted and the proceeds derived from
12 bingo are used for an authorized purpose. The VFW stated the Commission should focus on
13 violations of the Bingo Enabling Act and rules that directly relate to this responsibility.

14 COMMISSION RESPONSE: Based on a Sunset Commission recommendation, the
15 Texas Legislature amended the Bingo Enabling Act, at §2001.358(b)(2), to require the
16 Commission to include in its rules those violations which may result in license revocation,
17 denial, or suspension, or removal from or denial for the registry of bingo workers. The adopted
18 amendments comply with this directive.

19 §402.707 (Expedited Administrative Penalty Guideline): The amendments to §402.707 add
20 language to the rule's Expedited Administrative Penalty Chart to incorporate §2001.420(b)(2) of
21 the Bingo Enabling Act, which states that prizes of \$50 or less are not included in calculating the
22 \$2,500 prize limit for a single bingo occasion (the language initially proposed has been modified
23 based on the Commission’s response to comments on §402.200(n), discussed above). The

1 amendments also remove an obsolete reference to the Problem Gamblers' Help Line of the Texas
2 Council on Problem and Compulsive Gambling. Finally, the amendments allow for an informal
3 dispute resolution conference to occur after a licensee or other person receives a Notice of
4 Administrative Violation and Settlement Agreement.

5 COMMENT SUMMARY: The VFW supports the proposed amendments. The TCA has
6 no objection to the proposed amendments.

7 COMMISSION RESPONSE: No changes will be made in response to these comments.

8 §402.708 (Dispute Resolution): The amendments to §402.708 correct a spelling error and
9 remove obsolete references to the Request for Informal Dispute Resolution Form. The
10 amendments also clarify that if a licensee does not attend a scheduled Dispute Resolution
11 Conference, a formal hearing may occur. Finally, the amendments allow for an informal dispute
12 resolution conference for disputes regarding a Notice of Administrative Violation and Settlement
13 Agreement, an audit finding(s) contained within a final audit report, a determination letter or a
14 notice of opportunity to show compliance letter.

15 COMMENT SUMMARY: The VFW supports the proposed amendments. The TCA has
16 no objection to the proposed amendments.

17 COMMISSION RESPONSE: No changes will be made in response to these comments.

18 COMMENT SUMMARY: FWB supports language originally proposed by the TCA in
19 subsection (c)(4) to allow an informal dispute resolution conference for a game inspection report.
20 FWB further requested that conductor organizations have the right to provide written comments
21 on a game inspection report at the time the inspection is conducted. FWB stated this change
22 would allow organizations to respond to any alleged violations at the time of the inspection.

1 COMMISSION RESPONSE: No changes will be made in response to these comments.
2 As noted above in the response to comments to §402.703(e), a game inspection report does not
3 contain findings of violations; its purpose is to collect relevant information which later will be
4 used by CBOD management to assess potential non-compliance issues. Findings regarding non-
5 compliance are communicated to the licensee only after the relevant information has been
6 reviewed by CBOD management, at which time the licensee will have an opportunity to respond.

7 OTHER COMMENTS: In addition to the comments noted above, FWB commented on
8 suggested changes to §§402.102 (Bingo Advisory Committee), 402.401 (Temporary License),
9 and 402.410(a) (Amendment of a License - General Provisions). However, the Commission has
10 not proposed amending these rules and, thus, cannot adopt changes to these rules in this
11 rulemaking proceeding.

12 The rule amendments are adopted under: (1) §2001.054 of the Texas Occupations Code,
13 which authorizes the Commission to adopt rules to enforce and administer the Bingo Enabling
14 Act; and (2) §467.102 of the Texas Government Code, which authorizes the Commission to
15 adopt rules for the enforcement and administration of Chapter 467 and the laws under the
16 Commission's jurisdiction. The rule amendments, as adopted, have been reviewed by legal
17 counsel and found to be a valid exercise of the agency's legal authority.

18 The adopted amendments implement Chapter 2001 of the Texas Occupations Code.

1 §402.103. Training Program.

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

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

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

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

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

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

14 (b) Training format. The training program is offered in two formats--on-site and on-line.
15 Individuals may choose an on-site or on-line training course.

16 (c) Required training.

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

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

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

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

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

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

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

12 (2) Conducting a bingo game;

13 (3) Record keeping requirements;

14 (4) Administration and operation of charitable bingo;

15 (5) Promotion of a bingo game;

16 (6) Bingo Advisory Committee; and

17 (7) General information about the license application process.

18 (f) On-site training course.

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

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

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

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

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

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

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

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

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

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

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

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

16

General Restrictions on the Conduct of Bingo

1 §402.200. General Restrictions on the Conduct of Bingo.

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

6 (b) Inspection and use of equipment.

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

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

16 (3) Bingo balls that are missing, damaged, or otherwise compromised shall be replaced in
17 complete sets or individually if the bingo balls are of the same type and design. ~~The replacement~~
18 ~~of the set or individual bingo ball(s) must be documented on the bingo ball inspection log.~~

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

21 (5) ~~The organization must maintain on a specified form a log of each inspection of bingo~~
22 ~~balls, bingo console and flashboard signed by the registered worker conducting the inspection for~~
23 ~~forty-eight (48) months.~~

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

3 (A) bingo equipment malfunctions; and

4 (B) improper bingo ball calls or placements.

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

6 (1) owned by a licensed authorized organization;

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

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

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

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

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

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

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

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

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

8 ~~(1) A licensed authorized organization shall obtain, maintain, keep current, and make~~
9 ~~available for review during their bingo occasion to any person upon request a copy of the Bingo~~
10 ~~Enabling Act and the Charitable Bingo Administrative Rules.~~

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

- 13 (A) how the game will be played;
- 14 (B) the prize to be awarded if not United States currency; and
- 15 (C) how the winner(s) will be determined.

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

- 19 (A) The letters on the sign shall be no less than one inch tall.
- 20 (B) The sign shall inform the players that they should direct any questions or
21 complaints regarding the conduct of the bingo occasion to an operator listed on the sign.

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

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

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

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

9 (C) the patterns needed to win;

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

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

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

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

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

1 awarded for those games. The final game schedule shall be maintained pursuant to §402.500(a)
2 of this title.

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

5 (j) Bingo worker requirements

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

8 (2) A bingo worker shall not:

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

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

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

15 (k) Caller requirements. The caller shall:

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

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

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

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

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

22 (4) announce:

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

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

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

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

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

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

15 (l) Verification.

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

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

22 (B) After the caller closes the game, a winning disposable paper card or an
23 electronic representation of the card for each game shall also be posted on the licensed premises

1 where it may be viewed in detail by the players until at least 30 minutes after the completion of
2 the last bingo game of that organization's occasion.

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

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

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

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

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

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

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

17 ~~In order for a bingo game to qualify for the exemption in §2001.420(b)(2) of the Occupations~~
18 ~~Code, the total aggregate amount of the prize(s) actually awarded for that game must not exceed~~
19 ~~\$50.~~

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

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
9 that does not timely pay for the sale or lease of bingo supplies or equipment as provided in
10 Occupations 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
16 prior 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
5 of a licensed authorized organization whose organization is a member of the accounting unit
6 within 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
13 adequate records establishing that the use of such net proceeds is in accordance with Occupations
14 Code §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, pull-tab
20 bingo tickets, or a used bingo flash board or blower to a unit;

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

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

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

6 (2) If a member of a unit is in default, a person may not sell or transfer bingo equipment
7 or 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
10 prescribed 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
14 rental 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 on the records for the occasion on which they occurred.

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
18 §402.202 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
6 the 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
10 or the amount required to join the unit, the unit member's portion of the charitable distribution
11 may be reduced until these obligations have been satisfied. This business practice may be used
12 provided 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
17 bingo account, the funds must be reported on the unit's "Texas Bingo Quarterly Report" for the
18 quarter they were transferred and on the last "Texas Bingo Quarterly Report" the organization
19 filed as a 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

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

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

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

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

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

13 (l) Responsibilities of Unit Members.

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

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

20 (3) Each unit member organization is liable for any bingo cash shortages, inventory
21 shortages, or missing or deficient occasion deposits occurring in association with its bingo
22 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.

DRAFT

1 §402.205. Unit Agreements.

2 (a) Definition. The following term, when used in this section, shall have the following meaning:

3 Unit Agreement--A unit accounting agreement or a trust agreement forming a unit.

4 (b) A trust agreement forming a unit must contain all required elements of a unit accounting
5 agreement as specified under §2001.431(3) of the Act.

6 (c) Prior to operating as a unit, the unit must submit to the Commission a Texas Notice of Unit
7 Accounting form and a copy of the executed unit agreement.

8 (d) Organizations may not act as a unit until all member organizations are licensed.

9 (e) A designated agent or unit manager must submit a Texas Notice of Change for Accounting
10 Unit form and an amended unit agreement to the Commission seven calendar days prior to the
11 date of a change in unit management.

12 (f) A unit may appoint a designated agent who must be a natural person.

13 (1) A designated agent for a unit must be current in the training required under §2001.107
14 of the Act and §402.103 of this title (relating to Training Program).

15 (2) A bookkeeper may be a business contact for a commercial lessor and a designated
16 agent for an accounting unit provided that the bookkeeper is not an employee of the commercial
17 lessor.

18 (g) The original unit or trust agreement must contain the following information:

19 (1) the unit member's taxpayer name which is the name on the organization's organizing
20 instrument or the name of the organization as stated on its license to conduct bingo;

21 (2) the eleven-digit taxpayer number on file with the Commission;

22 (3) the designated agent information;

23 (4) the trustee organization if a trust agreement;

1 (5) whether inventory was transferred to the unit;

2 (6) the street address where the records of a dissolved unit will be maintained for the
3 required four year retention period unless the unit agreement specifies that each unit member will
4 receive a copy of the unit records;

5 (7) the method by which net proceeds and charitable purpose disbursements will be
6 apportioned among the members;

7 (8) the length of time allowed for the distribution of funds, records, and inventory and
8 allocation of authorized expenses and liabilities on dissolution or withdrawal of a member of the
9 unit;

10 (9) the method of determining the amount of payment for inventory or disposition of
11 inventory for dissolution or withdrawal of a member of the unit; and

12 (10) a unit agreement must be signed by the unit member organization's bingo
13 chairperson or other officer or director.

14 (h) An organization joining a unit and possessing inventory must provide to the Commission a
15 complete list of the inventory it has transferred to the unit within thirty (30) calendar days of
16 joining the unit. It is the responsibility of the organization to ensure that the Commission timely
17 received the inventory list.

18 (i) A written inventory of bingo equipment and supplies must include the following:

Figure: 16 TAC §402.205(i)	
If	Then
Bingo Cards/Paper	Organization transferring from, unit transferring to, series number, serial number, #on/#up, total number of sets/sheets transferred, signature of an officer, director or the bingo chairperson.
Bingo Equipment	Organization transferring from, unit transferring to, equipment type,

	manufacturer, model and/or serial number, signature of an officer, director or the bingo chairperson.
<u>Pull-tab Instant Bingo Tickets</u>	Organization transferring from, unit transferring to, form number, name of game, series number, total number of pull-tab bingo tickets transferred, signature of an officer, director or the bingo chairperson.

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(j) Amendment to a unit agreement must contain:

- (1) name of the unit;
- (2) effective date of the change;
- (3) specific section of the unit agreement being changed;
- (4) new terms of the agreement which are in compliance with the Act and the Rules;
- (5) signature of the bingo chairperson or other officer or director for each of the current unit members; and
- (6) statement which binds the amendment to the original unit agreement creating one document unless the entire unit agreement is re-stated.

(k) A unit must submit an amended unit agreement within thirty (30) calendar days of the effective date of any change to the Act or the Rules which would affect the agreement's compliance with the new Act or Rules.

(l) If a unit agreement or an amendment to a unit agreement is found not to be in compliance with the Act or the Rules, the unit will have thirty (30) calendar days after being notified by the Commission to provide a revised compliant unit agreement or compliant amendment to a unit agreement.

(m) At the time when only one unit member remains in the unit, the designated agent will dissolve the unit within thirty (30) calendar days or the Commission will dissolve the unit.

1 §402.210. House Rules.

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

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

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

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

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

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

1 §402.300. Pull-Tab Bingo.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7 (11) Payout Schedule--A printed schedule prepared by the manufacturer that displays:

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

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

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

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

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

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

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

16 (H) the percentage of payout or the percentage of profit of the pull-tab bingo
17 game; and

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

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

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

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

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

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

9 (A) a designated payout; or

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

12 (17) Symbol--A graphic representation of an object other than a numeric or alpha
13 character.

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

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

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

21 (2) All pull-tab bingo ticket color artwork with a letter of introduction including style of
22 play must be presented to the Commission's Austin, Texas location for review. The manufacturer
23 must submit one complete color positive or hardcopy set of the color artwork for each pull-tab

1 bingo ticket and its accompanying flare. The color artwork may be submitted in an electronic
2 format prescribed by the Commission in lieu of the hardcopy submission. The submission must
3 include the payout schedule. The submission must show both sides of a pull-tab bingo ticket and
4 must be submitted on an 8 1/2" x 11" size sheet. The color artwork will show the actual size of
5 the ticket and a 200% size of the ticket. The color artwork will clearly identify all winning and
6 non-winning symbols. The color artwork will clearly identify the winnable patterns and
7 combinations.

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

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

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

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

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

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

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

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

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

8 (4) Upon approval of the color artwork, the manufacturer will be notified by the
9 Commission to submit a specified number of tickets for testing. The tickets must be submitted
10 for testing to the Commission at the manufacturers own expense. If necessary, the Commission
11 may request that additional tickets or a deal be submitted for testing.

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

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

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

21 (1) Upon inspection of a pull-tab bingo ticket by the Commission and if it is deemed not
22 to properly preserve the integrity or security of the Commission including compliance with the
23 art work requirements of this rule, the Commission may disapprove a pull-tab bingo ticket. All

1 pull-tab bingo tickets that are disapproved by the Commission will cease to be allowed for sale
2 until such time as the manufacturer complies with the written instructions of the Commission, or
3 until any discrepancies are resolved. Disapproval of and prohibition to use, purchase, sell or
4 otherwise distribute such a pull-tab bingo ticket is effective immediately upon notice to the
5 manufacturer by the Commission. Upon receipt of such notice, the manufacturer must
6 immediately notify the distributor and the distributor must immediately notify affected licensed
7 authorized organizations to cease all use, purchase, sale or other distribution of the disapproved
8 pull-tab ticket. The distributor must provide to the Commission, within 15 days of the
9 Commission's notice to the manufacturer, confirmation that the distributor has notified the
10 licensed authorized organization that the pull-tab ticket has been disapproved and sale and use of
11 the disapproved ticket must cease immediately.

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

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

19 (d) Manufacturing requirements.

20 (1) Manufacturers of pull-tab bingo tickets must manufacture, assemble, and package
21 each deal in such a manner that none of the winning pull-tab bingo tickets, nor the location, or
22 approximate location of any winning pull-tab bingo ticket can be determined in advance of
23 opening the deal by any means or device. Nor should the winning pull-tab bingo tickets, or the

1 location or approximate location of any winning pull-tab bingo ticket be determined in advance
2 of opening the deal by manufacture, printing, color variations, assembly, packaging markings, or
3 by use of a light. Each manufacturer is subject to inspection by the Commission, its authorized
4 representative, or designee.

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

12 (3) Each deal of pull-tab bingo tickets must contain a packing slip inside the deal. This
13 packing slip must substantiate the name of the manufacturer, the serial number for the specific
14 deal, the date the deal was packaged, and the name or other identification of the person who
15 packaged the deal.

16 (4) 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
18 with if the package, box, or other container was received by the purchaser with the seal broken.

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

22 (6) A flare must accompany each deal.

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

3 (8) 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,
6 such tampering or opening would be easily discernible.

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

9 (10) 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
11 concealed letter(s), number(s) or symbol(s).

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

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

19 (13) Pull-tab bingo tickets must:

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

1 (B) have letters, numbers or symbols that are concealed behind perforated
2 window tab(s), and allow such letters, numbers or symbols to be revealed only after the player
3 has 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 $2/32$ ($4/64$)
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 $5/32$ 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 $3.5/32$ inch from the dye-cut window
13 perforations;

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

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

4 (14) Wheels must be submitted to the Commission for approval. As a part of the
5 approval process, the following requirements must be demonstrated to the satisfaction of the
6 Commission.

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

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

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

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

16 (e) Sales and redemption.

17 (1) Instant pull-tab bingo tickets from a single deal may be sold by a licensed authorized
18 organization over multiple occasions. A winning instant pull-tab bingo ticket must be presented
19 for payment during the licensed authorized organization's bingo occasion(s) at which
20 the instant pull-tab bingo ticket is available for sale.

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

1 pull-tab ticket must be presented for payment during the same bingo occasion at which the event
2 occurred.

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

7 (4) For a licensed authorized organization that conducts bingo on consecutive occasions
8 within one 24-hour period, the organization may sell or redeem event pull-tab tickets from a deal
9 during either occasion.

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

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

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

18 (8) A licensed authorized organization may bundle pull-tab bingo tickets of different
19 form numbers and may sell these bundled pull-tab bingo tickets during their licensed times.

20 (9) The licensed authorized organization's gross receipts from the sale of pull-tab bingo
21 tickets must be included in the reported total gross receipts for the organization. Each deal of
22 pull-tab bingo tickets must be accounted for in sales, prizes or unsold cards.

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

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

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

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

12 (g) Records.

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

16 (2) Licensed authorized organizations must show the sale of pull-tab bingo tickets, prizes
17 that were paid and the form number and serial number of the pull-tab bingo tickets on
18 the occasion cash report. The aggregate total sales for the licensed authorized organization must
19 be recorded on the cash register or point of sale station.

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

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

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

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

12 (A) date of sale;

13 (B) quantity sold;

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

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

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

17 (F) Texas taxpayer number of the purchaser.

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

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

21 (1) Sign-up Board. A form of pull-tab bingo that is played with a sign-up board. Sign-up
22 board tickets that contain a winning numeric, alpha or symbol instantly win the stated prize or
23 qualify to advance to the sign-up board. The sign-up board that serves as the game flare is where

1 identified winning sign-up board ticket holders may register for the opportunity to win the prize
2 indicated on the sign-up board.

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

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

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

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

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

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

21 (8) Multiple Part Event or Multiple Part Instant Ticket. A pull-tab bingo ticket that is
22 broken apart and sold in sections by a licensed authorized organization. Each section of the ticket

1 consists of a separate deal with its own corresponding payout structure, form number, serial
2 number, and winner verification.

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

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

1 §402.301. Bingo Card/Paper.

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

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

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

8 (3) Bonus number(s). A type of bingo card/paper that has an identified number or
9 numbers which when called could result in an additional prize awarded.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 (b) Approval of bingo card/paper.

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

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

21 (A) bear on the face of every disposable bingo card/paper used, sold, or furnished
22 in this state an impression of the State of Texas and a star of five points encircled by olive and
23 live oak branches and the words "Texas Lottery Commission," in accordance with detailed

1 specification, available on request from the Commission. The face of each disposable bingo
2 card/paper must also have printed on it in a conspicuous location the name of the manufacturer
3 or trademark, which has been filed with the Commission; and

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

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

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

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

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

23 (c) Disapproval of bingo card/paper.

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

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

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

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

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

20 (d) Manufacturing requirements.

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

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

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

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

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

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

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

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

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

17 (4) Packaging.

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

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

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

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

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

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

16 (e) Records.

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

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

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

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

4 (A) Sales invoice;

5 (B) Credit memos;

6 (C) Sales journal; and

7 (D) Purchase records.

8 (3) Licensed authorized organization.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

23

Pull-tab or Instant Bingo Dispensers

1 §402.303. Pull-tab or Instant Bingo Dispensers.

2 (a) Approval of Pull-tab or Instant Bingo Dispensers.

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

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

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

14 (b) Manufacturing requirements.

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

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

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

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

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

18 (c) Conductor requirements.

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

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

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

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

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

16 (e) Records.

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

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

4 (A) date of sale or lease;

5 (B) quantity sold or leased;

6 (C) cost per dispenser;

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

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

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

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

Card-Minding Systems—Approval of Card-Minding Systems

1 §402.324. Card-Minding Systems--Approval of Card-Minding Systems.

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

9 (b) Utilizing an Independent Testing Facility:

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

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

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

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

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

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

22 (c) Utilizing the Commission's testing lab:

23 (1) Manufacturer has card-minding system ready for submission;

- 1 (2) Manufacturer submits system to Commission with letter outlining system specifics;
- 2 (3) Testing lab may request a demonstration of the system prior to testing;
- 3 (4) Lab performs validation testing to ensure compliance with Commission's
- 4 requirements. This testing may include functional testing and/or modification testing, if
- 5 applicable;
- 6 (5) Lab communicates with manufacturer on any questions arising from testing;
- 7 (6) Lab recommends approval or denial of the system within forty-five (45) calendar days
- 8 from submission date; and
- 9 (7) The Commission issues an approval or denial letter to the manufacturer which
- 10 includes software/firmware signatures (checksum).
- 11 (d) After the Commission approves a card-minding system, the manufacturer shall notify the
- 12 Commission of the date, time and place of the first installation of the system so that a
- 13 Commission representative may observe and review the card-minding system.
- 14 (e) Checksum or digital signatures will be obtained from the proprietary software submitted for
- 15 testing to be used to verify that proprietary software at playing locations is the same as the
- 16 software that was approved.
- 17 (f) The decision by the director to approve or disapprove any component of a card-minding
- 18 system is administratively final.
- 19 (g) The manufacturer shall be responsible for the costs related to the testing of card-minding
- 20 systems to include the fees charged by independent testing facilities or the Commission testing
- 21 lab.
- 22 (h) The manufacturer shall be responsible for the travel costs incurred by the Commission to
- 23 audit the initial installation of a card-minding system in the state of Texas.

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

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Card-Minding Systems—Licensed Authorized Organizations Requirements

1 §402.325. Card-Minding Systems--Licensed Authorized Organization Requirements.

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

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

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

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

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

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

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

19 (4) All voided receipts must be attached to the bingo occasion report printed at the end of
20 each bingo occasion and maintained with the records.

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

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

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

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

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

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

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

- 1 (j) All card-minding devices must be loaded or enabled for play on the premises where the game
2 will be played.
- 3 (k) After the last game of the bingo occasion has been completed, the licensed authorized
4 organization shall print an occasion report from the site system.
- 5 (l) The bingo player must be physically present during the game on the premises where the game
6 is actually conducted.
- 7 (m) A licensed authorized organization may not add to or remove any software program related
8 to the conduct of bingo to an approved card-minding system. If the Commission detects or
9 discovers a card-minding system at a bingo premises that is using components or software that
10 were not approved by the Commission as required, the card-minding system is deemed to have
11 an unauthorized modification.
- 12 (n) No licensed authorized organization may display, use, or otherwise furnish a card-minding
13 device which has in any manner been tampered with, or which otherwise may deceive the player
14 or affect a player's chances of winning.
- 15 (o) At the time a player establishes a customer account, the licensed authorized organization
16 must notify the player that any unclaimed balances in the customer account at the end of the
17 occasion will be retained by the organization. Information regarding the retention by the licensed
18 authorized organization of the unclaimed balances in a customer account at the end of an
19 occasion must be included in the information the organization must provide to its players
20 pursuant to §402.200 of this chapter. Any unclaimed balances retained by the organization under
21 this subsection shall be considered to be funds derived from the conduct of bingo, deposited into
22 the organization's bingo account, and reported as other income. However, any unclaimed

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

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

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

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

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

General Licensing Provisions

1 §402.400. General Licensing Provisions.

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

- 6 (1) All information requested on the application form and applicable schedules;
- 7 (2) All supplemental information requested during the pre-licensing investigation period;
- 8 (3) The applicable license fee;
- 9 (4) The required bond or other security, if applicable; and
- 10 (5) Authorized signatures as required by the Commission.

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

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

- 16 (1) the name and address of the organization as it appears on the application;
- 17 (2) the Texas taxpayer identification number; or, if sole owner, the individual's social
18 security number;
- 19 (3) a statement identifying the information submitted;
- 20 (4) the signature, printed name and telephone number of the person authorized to submit
21 the information; and
- 22 (5) all supplemental information requested during the pre-licensing investigation period.

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

4 (e) If an application is incomplete, the Commission will notify the applicant. The applicant must
5 provide the requested information within 21 calendar days of such notification. Failure to
6 provide the requested information within the 21 calendar day time line may result in the denial of
7 the license application.

8 (f) Prior to the issuance of a license, the Commission may require an applicant to attend a pre-
9 licensing interview. The Commission will identify the person or persons for the applicant who
10 must attend the pre-licensing interview. The pre-licensing interview will consist of, at a
11 minimum, the following:

12 (1) review of the Bingo Enabling Act;

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

14 (3) licensee responsibilities;

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

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

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

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

1 (h) Each licensed authorized organization and organization issued a temporary authorization is
2 required to file timely and complete required reports, as applicable to the type of current license
3 held.

4 (i) A license applicant may withdraw an application at any time prior to the approval or denial of
5 the application. Once the written request for withdrawal is received by the Commission, all
6 processing of the application will cease and the withdrawal is considered final. License fees
7 submitted with an application that is subsequently withdrawn are not eligible for refund. If the
8 organization wants to reapply for a license, a complete new application and new license fee are
9 required.

10 (j) Voluntary surrender of a license.

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

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

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

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

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

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

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

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

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

9 (k) Administrative Hold. A licensed authorized organization or commercial lessor, other than an
10 association of licensed authorized organizations, may request to place its regular license in
11 administrative hold, but only at the time of license renewal, as provided in §402.411 of this
12 Chapter.

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

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

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

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

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

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

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

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

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

12 (8) A license may be removed from administrative hold at any time during a license
13 period. To remove a license from administrative hold, the licensee must file a license amendment
14 application as provided in §2001.306 of the Occupations Code and §402.410 of this Chapter.

15 (l) Each person required to be named in an application for license under the Bingo Enabling Act
16 other than a temporary license will have a criminal record history inquiry at state and/or national
17 level conducted. Such inquiry may require submission of fingerprint card(s). FBI fingerprint
18 cards are required for an individual listed in an application for a distributor or manufacturer's
19 license and for an individual listed on an application who is not a Texas resident. A criminal
20 record history inquiry at the state and/or national level may be conducted on the operator and
21 officer or director required to be named in an application for a non-annual temporary license
22 under the Bingo Enabling Act.

1 (m) Representation; personal receipt of documents. For purposes of this subsection, an individual
2 shall be recognized by the Commission as an applicant or licensee's authorized representative
3 only if the applicant or licensee has filed with the Commission a form prescribed by the
4 Commission identifying the individuals currently listed as directors, officers, or operators, or if
5 they are identified on the completed Authorization of Representation for Bingo Licenses form.

6 A person is not an authorized representative of the applicant or licensee unless specifically
7 named on a form prescribed by the Commission as part of the application, or in the
8 Authorization of Representation for Bingo Licenses form that is on file with the Commission.

9 Only those persons specifically named on a form prescribed by the Commission or in the
10 Authorization of Representation for Bingo Licenses form as an authorized representative shall be
11 recognized by the Commission concerning any matter relating to the licensing process or license.

12 Only the applicant or licensee or its authorized representative may receive from the Commission
13 documents relating to the application or license without being required to submit a request under
14 the Public Information Act.

15 (n) Eligibility determination pending identification of playing location, days, times, and starting
16 date.

17 (1) An organization may submit an original application for a license to conduct bingo
18 without including information on intended playing location, days, times, and starting date if
19 requesting a determination of eligibility status.

20 (2) All other information requested on the application and the
21 accompanying supplements must be complete and in compliance with all other requirements of
22 the Act and Rules before the Commission determines eligibility status.

1 (3) An organization requesting a determination of eligibility status must submit with its
2 application a non-refundable processing fee in an amount equal to a Class A regular license fee,
3 which will be applied towards the organization's license fee should the organization become
4 licensed.

5 (4) Upon a determination that the requirements in paragraph (2) and (3) of this subsection
6 have been met, the Commission will provide to the authorized organization written notice of the
7 eligibility status of the applicant.

8 (5) Within 180 calendar days of the date the Commission provides notice of the eligibility
9 status of an applicant, the authorized organization must inform the Commission on a form
10 prescribed by the Commission of the intended playing location, days, times, and starting date of
11 the occasions. If the authorized organization fails to provide the information to the Commission
12 within 180 calendar days, the Commission will proceed with denial of the application.

13 (6) After review of the applicant's submitted intended playing location, days, times,
14 starting date, and upon request by the applicant, the Commission may issue temporary
15 authorization to conduct bingo for a period of 60 calendar days if the Commission determines
16 that the intended playing location, days, times, and starting date comply with the Bingo Enabling
17 Act.

18 (7) In order to receive a regular license to conduct bingo, an authorized organization that
19 has received an eligibility determination and informed the Commission of its intended playing
20 location, days, times, and starting date of the occasions must also submit the required bond or
21 security, any remainder of the appropriate license fee, a Texas Request for Licensure for Eligible
22 Organization form, certified meeting minutes stating that the organization voted to conduct bingo
23 at the licensed location, and confirmation of the accuracy of information provided on the

- 1 application to conduct bingo. The Commission will notify the applicant of the required license
- 2 fee and bond amounts within 21 calendar days of receipt of the organization's intended playing
- 3 location, days, times, and starting date.

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1 §402.404. License and Registry Fees.

2 (a) Definitions.

3 (1) Escrow Account--An account established with the Commission by an authorized
4 organization in which funds may be deposited for the advance payment of temporary licenses
5 and license amendments.

6 (2) License period--For purposes of Texas Occupations Code §2001.104 and §2001.158,
7 the term "license period" means the four full calendar quarters immediately preceding the license
8 end date.

9 (3) Regular License Fee Amount:

10 (A) The annual fee for a license to conduct bingo shall be as follows:

11 (i) Class A (annual gross receipts of \$25,000 or less) - \$132;

12 (ii) Class B (annual gross receipts of more than \$25,000 but not more than
13 \$50,000) - \$264;

14 (iii) Class C (annual gross receipts of more than \$50,000 but not more than
15 \$75,000) - \$396;

16 (iv) Class D (annual gross receipts of more than \$75,000 but not more than
17 \$100,000) - \$528;

18 (v) Class E (annual gross receipts of more than \$100,000 but not more
19 than \$150,000) - \$792;

20 (vi) Class F (annual gross receipts of more than \$150,000 but not more
21 than \$200,000) - \$1,188;

22 (vii) Class G (annual gross receipts of more than \$200,000 but not more
23 than \$250,000) - \$1,584;

1 (viii) Class H (annual gross receipts of more than \$250,000 but not more
2 than \$300,000) - \$1,980;

3 (ix) Class I (annual gross receipts of more than \$300,000 but not more
4 than \$400,000) - \$2,640;

5 (x) Class J (annual gross receipts of more than \$400,000) - \$3,300.

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

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

9 (ii) Class B (annual gross rentals from licensed organizations of more than
10 \$12,000 but not more than \$20,000) - \$264;

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

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

15 (v) Class E (annual gross rentals from licensed organizations of more than
16 \$40,000 but not more than \$50,000) - \$792;

17 (vi) Class F (annual gross rentals from licensed organizations of more than
18 \$50,000 but not more than \$60,000) - \$1,188;

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

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

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

3 (x) Class J (annual gross rentals from licensed organizations of more than
4 \$90,000) - \$3,300.

5 (C) Manufacturer's License. The annual fee for a manufacturer's license shall be
6 \$3,000.

7 (D) Distributor's License. The annual fee for a distributor's license shall be
8 \$1,000.

9 (b) Original License Application.

10 (1) License to Conduct Charitable Bingo.

11 (A) An initial license fee for an original license to conduct charitable bingo or an
12 original license to lease bingo premises submitted by an authorized organization that does not
13 have a license issued under the Bingo Enabling Act, must be paid from the organization's general
14 fund bank account.

15 (B) An applicant may be required to submit additional license fees if the
16 estimated gross receipts used to calculate the license fee are not reasonable when compared to
17 gross receipts of other organizations with the same number of occasions conducting bingo at the
18 same bingo premises. If no such organizations exist, the Charitable Bingo Operations Division
19 may use gross receipts amounts from organizations with the same number of occasions
20 conducting bingo at similarly situated bingo premises. These amounts are used to establish the
21 gross receipts amount upon which the applicant's license fee is based and must be submitted.

22 (2) Commercial License to Lease Bingo Premises.

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

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

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

12 (c) Changes Within Six Months of a Licensed Authorized Organization's License Term.

13 (1) An organization shall re-estimate its annual gross receipts and submit any balance due
14 in license fee amount if there is an increase in the number of bingo occasions conducted within
15 six months of the issuance of the original license to conduct bingo.

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

19 (A) the number of organizations conducting bingo at a licensed location; and

20 (B) the number of bingo occasions conducted at the licensed location.

21 (d) License Renewal Fee.

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

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

8 (3) Upon written request by an organization to renew its license to conduct bingo or
9 license to lease bingo premises that is in or going in administrative hold, the organization shall
10 pay a Class A license renewal fee, plus any amount due under paragraph (2) of this subsection, in
11 lieu of the recalculated fee amount from the preceding license period.

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

14 (A) playing location;

15 (B) rental amount per occasion; or

16 (C) increase in the number of occasions bingo is conducted.

17 (5) If an organization requests its license be placed in administrative hold upon the
18 renewal of the license and submits the requisite fee as set in paragraph (3) of this subsection, the
19 Commission may require an organization to submit an additional license fee when it files an
20 application to amend a license to conduct charitable bingo if the organization amends its license
21 to begin conducting bingo within the first six months of the license term.

22 (6) If a commercial lessor or a licensed authorized organization which leases bingo
23 premises requests its license be placed in administrative hold upon the renewal of its lessor

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

6 (e) Two-Year License Fee Payments.

7 An applicant for a license issued under the Bingo Enabling Act that is effective for two years
8 must pay an amount equal to two times the amount of the annual license fee, as set in
9 §402.404(a)(3).

10 (f) Regular License Fee Recalculation.

11 (1) For the purpose of determining the license fee 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 fee recalculation for a two year license to
16 conduct bingo or license to lease bingo premises, each year of the license period shall be
17 recalculated separately. The final recalculated fee will be the total of the yearly license fees. The
18 annual gross receipts or gross rental income, as applicable, shall be based on the four consecutive
19 quarterly returns due immediately prior to the first year period and the four consecutive quarterly
20 returns due immediately prior to the license expiration date of the second year period.

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

1 members during the quarter unless the accounting unit bases its distribution of proceeds on the
2 number of occasions.

3 (4) For accounting units who base their distribution of proceeds on the number of
4 occasions a member conducts, the gross receipts used to recalculate the license fee apportioned
5 to a unit member will be calculated by dividing the unit's gross receipts by the total number of
6 occasions conducted by all unit members and then multiplying by the number of occasions
7 reported by the unit member.

8 (5) If a quarterly return is due less than 50 days prior to a license expiration, the gross
9 receipts or gross rental income reported on that return will not be available to be used to
10 calculate the annual gross receipts or gross rental income. Instead, the gross receipts or gross
11 rental income reported on the four immediately preceding quarterly returns, as applicable, will be
12 used to recalculate the organization's license fee.

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

17 (7) License no longer exists.

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

21 (B) Notwithstanding the fact that an organization which leased bingo premises
22 under a license that ceased to exist for whatever reason, the organization must submit the

1 recalculated license fee for the period that the organization leased the premises and collected
2 gross rental income.

3 (C) If an organization ceases to be licensed for whatever reason, all gross receipts
4 or gross rental income collected (from the period after the last quarterly return used to recalculate
5 the license fee for the prior year) is used to recalculate the final license fee due. If the
6 organization fails to file a return for any required period(s), an estimated return will be used. The
7 organization shall submit any balance due after license fee recalculation.

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

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

15 (10) If an organization issued a license that is effective for two years ceases to be licensed
16 prior to conducting bingo in a quarter used to calculate the second year fee, a Class A license fee
17 will apply for the second year of the license for the purposes of recalculating the license fee.

18 (g) Overpayment of License Fee.

19 (1) An overpayment of a bingo conductor's or commercial lessor's annual license fee may
20 occur either through a recalculation of the license fee pursuant to subsection (f) of this section, or
21 if a licensee or accounting unit mistakenly submits more money than is actually required for the
22 license fee(s). An overpayment of a manufacturer's or distributor's annual license fee occurs if a

1 licensee mistakenly submits more money than is actually required for the license fee(s). The
2 Commission will determine whether an overpayment has occurred on a case by case basis.

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

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

14 (4) All regular license fee overpayments submitted by an accounting unit for a unit
15 member are only eligible to be credited or refunded to that unit member.

16 (h) Refunds.

17 (1) Except as provided by this subsection, regular license fees submitted to the
18 Commission are not eligible for refund.

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

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

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

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

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

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

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

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

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

17 (j) Escrow Accounts.

18 (1) An authorized organization may submit funds to the Commission to be placed in an
19 escrow account and used for future temporary license fees or license amendment fees. However,
20 any funds placed in, or otherwise credited to, an escrow account are not eligible for refund and
21 must be used by the end of the licensee's subsequent license period. If a licensed authorized
22 organization fails to use escrow account funds within this time period, the funds will be retained
23 by the Commission.

1 (2) An accounting unit may submit funds to be placed in a unit member's escrow account
2 and used for that member's future temporary license fees or license amendment fees. At the time
3 of submission of the funds, the accounting unit must designate in writing the unit member's
4 escrow account in which the funds will be placed. Funds placed in a unit member's escrow
5 account are not eligible for refund and may not be transferred to another unit member's escrow
6 account or otherwise credited to another unit member.

7 (k) Temporary Authorization to Conduct Bingo.

8 (1) The amount of gross receipts collected in connection with a temporary authorization
9 is used to recalculate the regular license fee.

10 (2) An organization conducting bingo pursuant to a temporary authorization must comply
11 with the same statutory and administrative rule requirements, annual gross receipts fee schedule,
12 and quarterly return filing requirements as an organization which has a regular license to conduct
13 bingo.

14 (3) If an organization conducting bingo pursuant to a temporary authorization does not
15 become licensed to conduct bingo, the fee for the temporary authorization will be determined by
16 the fee schedule for a license to conduct bingo set out in subsection (a)(3)(A) of this section.

17 (l) Registry of Approved Bingo Workers.

18 (1) A fee of \$25 must accompany each Texas Application for Registry of Approved
19 Bingo Workers, and each application to renew listing on the registry, submitted to the
20 Commission. The Commission will not consider or act upon an application until the requisite fee
21 is paid.

22 (2) Except as authorized by the Charitable Bingo Operations Director, or their designee,
23 an application to renew listing on the registry received by the Commission more than 60 days

- 1 prior to the expiration date of the current registry listing will be returned unprocessed by the
- 2 Commission to the sender.

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1 §402.407. Unit Manager.

2 (a) Notification.

3 (1) An individual shall not provide services as a unit manager to licensed authorized
4 organizations that have formed a unit until the following occurs:

5 (A) the Commission receives the unit accounting agreement executed by all
6 members of the unit with the name of the unit manager designated therein;

7 (B) the individual holds a unit manager license issued by the Commission;

8 (C) the individual posts a bond or security, for each unit, as prescribed
9 by §402.603 of this chapter; and

10 (D) the individual provides information to the Commission relating to the location
11 where the unit manager services will be performed and where the records will be maintained.

12 (2) A unit manager shall provide written notification to the Commission of any change in
13 the information in the unit manager's most recent application for a unit manager license or
14 renewal. The unit manager shall notify the Commission of the change in the information not later
15 than the 15th day after the date of the change.

16 (b) Annual License Fee for a Unit Manager. The non refundable annual license fee for a unit
17 manager may not exceed \$250.00.

1 §402.411. License Renewal.

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

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

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

13 (d) To be timely filed:

14 (1) the renewal application and payment of the estimated license fee must be received by
15 the Commission no later than the license expiration date; or

16 (2) the renewal application's envelope postmarked date must clearly show a date that is
17 no later than the license expiration date, unless the expiration date is a Saturday, Sunday, or legal
18 holiday, in which event the application is due the next day which is not a Saturday, Sunday, or
19 legal holiday; or

20 (3) an application bearing no legible postmark, postal meter date, or date of delivery to
21 the common carrier shall be considered to have been sent seven calendar days before receipt by
22 the Agency, or on the date of the document if the document date is less than seven days earlier
23 than the date of receipt.

1 (e) Notwithstanding subsection (b) of this section, if a renewal application is not timely filed, a
2 licensee may renew their license by filing a complete application for renewal with the
3 Commission and submitting the requisite license fee and late license renewal fee. The late
4 license renewal fee is based on the estimated license fee for the renewal period. Penalty amounts
5 are calculated as follows:

Figure: 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%

6
7 (f) The late license renewal fee is due within 14 calendar days of the date of the written
8 notification by the Commission of the amount due.

9 (g) The Commission will not issue a temporary license to a licensed authorized organization that
10 files its renewal application late until the Commission receives the late license renewal fee.

11 (h) The Commission will not issue an amended license to a licensed authorized organization or
12 licensed commercial lessor that files its renewal application late until the Commission receives
13 the late license renewal fee.

14 (i) A late license renewal fee is not refundable.

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

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

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

2 (2) If any information previously submitted to the Commission with the licensee's initial
3 license application or a previous renewal application has not changed since the information was
4 last submitted to the Commission, the renewal applicant need not provide that information again.
5 The applicant must certify on the renewal application that no changes have been made to the
6 specific information since it was last submitted to the Commission.

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

11 (m) Except as authorized by the Charitable Bingo Operations Director, or their designee, license
12 renewal applications received by the Commission more than 60 days prior to the current license
13 expiration date will be returned unprocessed by the Commission to the sender.

Qualifications and Requirements of Conductor's License

- 1 §402.420. Qualifications and Requirements for Conductor's License.
- 2 An applicant must provide with its application documentation demonstrating that it meets all
- 3 qualifications and requirements for a license to conduct bingo based on the type of organization
- 4 it is. The qualifications, requirements, and necessary documentation for different types of
- 5 organizations are shown in the chart below.

Figure: 16 TAC §402.420	
Religious Society:	
Qualifications and Requirements	Necessary Documentation
Must be organized primarily for religious purposes.	<p>A signed and dated copy of the most recent version of all of the organization's organizing instrument(s);</p> <p>Or</p> <p>A copy of the page from the applicant's parent organization religious directory that lists the applicant organization's information.</p> <p>The name of the applicant organization must match the name of the organization on the documents submitted.</p>
Must have been organized in Texas for at least three years.	<p>If the applicant is affiliated with a state or national organization, Verification by Parent for Charitable Organization Conductor.</p> <p>If the applicant is not affiliated with a state or national organization, a copy of a listing in a publication such as a national roster or newspaper article naming the organization;</p> <p>Or</p> <p>A letter to the applicant from a government agency.</p> <p>The document submitted must reflect the</p>

	applicant's name, Texas address, and either be dated three years prior to the application date or establish the date the organization was founded.
Must demonstrate that the organization has made significant progress toward the accomplishment of its purposes during the 12 months preceding the date of application.	<p>At least three (3) different types of acceptable documents as proof that your organization was continuously engaged in furthering your charitable purpose for the time period beginning one year prior to the date the application was signed.</p> <p>Examples of acceptable documentation include:</p> <ol style="list-style-type: none"> 1. a letter from the diocese, 2. notices of church services, and/or church bulletins, 3. canceled checks for clergy salaries, religious books, materials and/or supplies, maintenance of religious building(s), and 4. records of marriages performed, or records of funerals performed. <p>To establish the beginning date, an organization may submit documentation dated up to three months prior to the year before the application was signed in order to prove that the organization has been continuously engaged in furthering its charitable purpose throughout the past twelve months.</p> <p>All documents must be dated and indicate the name of the organization.</p>
Must appoint only the organization's members to serve as operators for the organization.	A current membership list with all officers and directors noted. Officers would include a priest, pastor, rabbi, or other head of the church. Membership list will be compared to persons listed on the application to confirm that only members have been named as operators.
Must ensure that none of the organization's officers,	A signed and dated copy of the most recent version of all of the organization's organizing instruments(s) that list the officer and director positions;

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

<p>medical research or treatment programs.</p>	<p>The name of the applicant organization must match the name of the organization on the organizing instruments.</p>
<p>Must have had a governing body or officers elected by the vote of the members or delegates elected by the members for at least three years.</p>	<p>Copies of meeting minutes recording officer elections for the past three years showing the date of each meeting and signature of an officer;</p> <p>Or</p> <p>A dated list of officers and positions held for each year of the past three years.</p> <p>A statement signed by an officer indicating which positions were left open if the organization had positions defined in organizing instrument(s) that the organization did not fill.</p> <p>Organizing instrument(s) will be reviewed to ensure that the organization has members who elect officers and to confirm the officer positions.</p>
<p>Must have been affiliated with a state or national organization organized to perform the same purposes for at least three years.</p>	<p>Verification by Parent for Charitable Organization Conductor</p>
<p>Must hold a valid 501(c) exemption through the Internal Revenue Service.</p>	<p>If the Commission is unable to validate directly with the Internal Revenue Service that the organization has a 501(c) designation, the Commission will request additional documentation from the applicant.</p>
<p>May not distribute any income to members, officers, or governing body except as</p>	<p>Most recent copy of IRS Form 990 if organization is required to file it with the Internal Revenue Service.</p> <p>Indicate on application if organization is not required to file Form 990.</p>

reasonable compensation for services.	A signed and dated copy of the most recent version of all of the organization's organizing instruments.
Must demonstrate significant progress toward the accomplishment of the organization's purposes during the 12 months preceding the date of application.	<p>At least three (3) different types of acceptable documents as proof that organization was engaged in furthering its charitable purpose for the time period beginning one year prior to the date the application was signed. Acceptable documentation may include:</p> <ol style="list-style-type: none"> 1. canceled checks in support of medical treatment or research programs, i.e., American Cancer Society, Muscular Dystrophy Association, or other recognized organizations dedicated to the elimination of disease; 2. canceled checks for the purchase of medical equipment or to provide medical care for the needy; 3. letters of appreciation from individuals or organizations receiving benefits for treatment; 4. IRS Form 990; and 5. newspaper articles. <p>To establish the beginning date, an organization may submit documentation dated up to three months prior to the year before the application was signed in order to prove that the organization has been engaged in furthering its charitable purposes throughout the past twelve months.</p> <p>All documents must be dated and indicate the name of the organization.</p>
May appoint only the organization's members to serve as operators.	A current membership list with officers and directors noted. Membership list will be compared to the persons listed on the application to confirm that only members have been named as operators.
Must ensure that none of the organization's officers,	A signed and dated copy of the most recent version of all of the organization's organizing instruments that list the officer and director positions;

<p>directors and operators have been convicted in any jurisdiction of a gambling or gambling-related offense; and, have not been convicted of a criminal fraud offense, with the exception of a criminal fraud offense that is a Class C misdemeanor.</p>	<p>Or</p> <p>If officers and/or directors are not listed in organizing instruments, a current membership list identifying officers and directors.</p> <p>If officer and/or director positions are unfilled, a statement signed by an officer indicating which positions are vacant.</p> <p>The Commission will compare the number of officers and directors included in the documents to the application to ensure all officers and directors have been disclosed.</p> <p>The Department of Public Safety will conduct a criminal history check on all officers, directors, and operators.</p> <p>Any officer, director, or operator not meeting the criminal history background requirement must resign before a license may be issued.</p>
<p>Section 2001.102 License Application Requirements.</p>	<p>If the organization is organized under the law of this state, the organization must be in good standing with the Secretary of State (SOS) The Commission will request additional documentation from the applicant if unable to validate good standing directly with the SOS.</p>
<p>Volunteer Fire Department:</p>	
<p>Qualifications and Requirements</p>	<p>Necessary Documentation</p>
<p>Organized primarily to provide fire-fighting services.</p>	<p>Proof of membership in a professional fire fighting organization;</p> <p>Or</p> <p>Copy of a publication that lists the organization and its phone number to call in case of fire;</p> <p>Or</p> <p>A letter from a local government agency recognizing the organization as a volunteer fire</p>

	<p>department;</p> <p>Or</p> <p>A copy of all organizing instrument(s) which list this purpose for the organization;</p> <p>Or</p> <p>A dated newspaper article which details the organization's activities.</p> <p>The name of the applicant organization must match the name of the applicant on the documents submitted.</p>
<p>Must have been organized in Texas for at least three years.</p>	<p>If the applicant is affiliated with a state or national organization, Verification by Parent for Charitable Organization Conductor.</p> <p>If the applicant is not affiliated with a state or national organization, a copy of a listing in a publication such as a national roster or newspaper article naming the organization;</p> <p>Or</p> <p>A letter to the applicant from a government agency.</p> <p>The document submitted must reflect the applicant's name, Texas address, and either be dated three years before the application date or establish the date the organization was founded.</p>
<p>Must operate fire-fighting equipment.</p>	<p>Pictures of fire equipment reflecting the name of the volunteer fire department;</p> <p>Or</p> <p>Copies of canceled checks or invoices for fire-fighting equipment.</p>
<p>May not pay members other than nominal compensation.</p>	<p>Most recent copy of IRS Form 990 if organization is required to file it with the Internal Revenue Service.</p> <p>Indicate on application if organization is not</p>

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

<p>with the exception of a criminal fraud offense that is a Class C misdemeanor.</p>	<p>officers and directors included in the documents to the application to ensure all officers and directors have been disclosed.</p> <p>The Department of Public Safety will conduct a criminal history check on all officers, directors and operators.</p> <p>Any officer, director, or operator not meeting the criminal history background requirement must resign before a license may be issued.</p>
<p>Section 2001.102 License Application Requirements.</p>	<p>A signed copy of the applicant organization's organizing instruments, including any bylaws, constitution, charter, and articles of incorporation.</p> <p>If the organization is organized under the law of this state the organization must be in good standing with the Secretary of State (SOS). The Commission will request additional documentation from the applicant if unable to validate good standing directly with the SOS.</p>
<p>Volunteer Fire Department:</p>	
<p>Qualifications and Requirements</p>	<p>Necessary Documentation</p>
<p>Organized primarily to provide fire-fighting services.</p>	<p>Proof of membership in a professional fire fighting organization;</p> <p>Or</p> <p>Copy of a publication that lists the organization and its phone number to call in case of fire;</p> <p>Or</p> <p>A letter from a local government agency recognizing the organization as a volunteer fire department;</p> <p>Or</p> <p>A copy of all organizing instrument(s) which list this purpose for the organization;</p>

	<p>Or</p> <p>A dated newspaper article which details the organization's activities.</p> <p>The name of the applicant organization must match the name of the applicant on the documents submitted.</p>
<p>Must have been organized in Texas for at least three years.</p>	<p>If the applicant is affiliated with a state or national organization, Verification by Parent for Charitable Organization Conductor.</p> <p>If the applicant is not affiliated with a state or national organization, a copy of a listing in a publication such as a national roster or newspaper article naming the organization;</p> <p>Or</p> <p>A letter to the applicant from a government agency.</p> <p>The document submitted must reflect the applicant's name, Texas address, and either be dated three years before the application date or establish the date the organization was founded.</p>
<p>Must operate fire-fighting equipment.</p>	<p>Pictures of fire equipment reflecting the name of the volunteer fire department;</p> <p>Or</p> <p>Copies of canceled checks or invoices for fire-fighting equipment.</p>
<p>May not pay members other than nominal compensation.</p>	<p>Most recent copy of IRS Form 990 if organization is required to file it with the Internal Revenue Service.</p> <p>Indicate on application if organization is not required to file Form 990.</p> <p>If not required to file Form 990, a copy of a volunteer fire fighter application;</p> <p>Or</p>

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

	Any officer, director, or operator not meeting the criminal history background requirement must resign before a license may be issued.
Section 2001.102 License Application Requirements.	A signed copy of the applicant organization's organizing instruments, including any bylaws, constitution, charter, and articles of incorporation. If the organization is organized under the law of this state the organization must be in good standing with the Secretary of State (SOS). The Commission will request additional documentation from the applicant if unable to validate good standing directly with the SOS.
Veteran Organization:	
Qualifications and Requirements	Necessary Documentation
Must be an unincorporated association or corporation.	A signed copy of the organization's organizing instruments, including any bylaws, constitution, charter, and articles of incorporation. The name of the applicant organization must match the name of the organization on the organizing instruments.
Must hold a valid 501(c) exemption through the Internal Revenue Service. Must have been organized in Texas for at least three years.	If the Commission is unable to validate directly with the Internal Revenue Service that the organization has a 501(c) designation, the Commission will request additional documentation from the applicant. Verification by Parent for Charitable Organization Conductor.
May not distribute any income to members, officers, or governing body	Most recent copy of IRS Form 990 if organization is required to file it with the Internal Revenue Service. Indicate on application if organization is not required to file Form 990.

except as reasonable compensation for services.	
Members must be veterans or dependents of veterans of the United States armed forces.	Verification by Parent for Charitable Organization Conductor
Must be chartered by the United States Congress.	The Commission will review the list of chartered veteran organizations maintained by the United States Department of Veteran Affairs. Its website link is: http://www1.va.gov/vso/index.cfm?template=view .
Must be organized to advance the interest of veterans or active duty personnel of the US armed forces and their dependents.	A signed copy of the applicant organization's organizing instruments, including any bylaws, constitution, charter, and articles of incorporation. The name of the applicant organization must match the name of the organization on the organizing instruments.
Must demonstrate significant progress toward the accomplishment of the organization's purposes during the 12 months preceding the date of application.	At least three (3) different types of acceptable documents as proof that organization was engaged in furthering its charitable purpose for the time period beginning one year prior to the date the application was signed. Examples of acceptable documentation include copies of: 1. activity reports filed with the state and/or national organization, 2. monetary donations to Veterans Administration (VA) hospitals, 3. letters of appreciation from veterans and/or organizations receiving benefits, 4. support of and/or contributions to veterans' funerals and/or their families,

	<p>5. visits to veteran's hospitals,</p> <p>6. newspaper articles, and</p> <p>7. Form 990.</p> <p>To establish the beginning date, an organization may submit documentation dated up to three months prior to the year before the application was signed in order to prove that the organization has been engaged in furthering its charitable purpose throughout the past twelve months.</p> <p>All documents must be dated and indicate the name of the organization.</p>
<p>May appoint only the organization's members to serve as operators.</p>	<p>A current membership list with all officers and directors noted. Membership list will be compared to the persons listed on the application to confirm that only members have been named as operators.</p>
<p>Must ensure that none of the organization's officers, directors and operators have been convicted in any jurisdiction of a gambling or gambling-related offense; and, have not been convicted of a criminal fraud offense, with the exception of a criminal fraud offense that is a Class C misdemeanor.</p>	<p>A signed copy of the applicant organization's organizing instruments, including any bylaws, constitution, charter, and articles of incorporation that list the officer and director positions;</p> <p>Or</p> <p>If officers and/or directors are not listed in organizing instruments, a current membership list identifying officers and directors.</p> <p>If officer and/or director positions are unfilled, a statement signed by an officer indicating which positions are vacant.</p> <p>The Commission will compare the number of officers and directors included in the documents to the application to ensure all officers have been disclosed.</p> <p>The Department of Public Safety will conduct a criminal history check on all officers, directors and operators</p>

	Any officer, director, or operator not meeting the criminal history background requirement must resign before a license may be issued.
Section 2001.102 License Application Requirements.	If the organization is organized under the law of this state the organization must be in good standing with the Secretary of State (SOS). The Commission will request additional documentation from the applicant if unable to validate good standing directly with the SOS.
Fraternal Organization:	
Qualifications and Requirements	Necessary Documentation
Must be an Unincorporated Association or Corporation.	A signed copy of the applicant organization's organizing instruments, including any bylaws, constitution, charter, and articles of incorporation. The name of the applicant organization must match the name of the organization on the organizing instruments.
Must be organized to perform and engage in charitable work.	A signed copy of the applicant organization's organizing instruments, including any bylaws, constitution, charter, and articles of incorporation. The name of the applicant organization must match the name of the organization on the organizing instruments.
Must hold a valid 501(c) exemption through the Internal Revenue Service.	If the Commission is unable to validate directly with the Internal Revenue Service that the organization has a 501(c) designation, the Commission will request
May not distribute any income to members, officers, or governing body except as reasonable compensation.	Most recent copy of Internal Revenue Service (IRS) Form 990 if organization is required to file it with the IRS. Indicate on application if organization is not required to file Form 990. A signed copy of the applicant organization's organizing instruments, including any bylaws, constitution, charter, and articles of incorporation.

<p>Must have been organized in Texas for at least three years.</p>	<p>Verification by Parent for Charitable Organization Conductor if affiliated with a state or national organization;</p> <p>Or</p> <p>A copy of a listing in a publication such as a national roster or newspaper article if not affiliated with a state or national organization;</p> <p>Or</p> <p>A letter to the applicant from a government agency. The document submitted to confirm the requirement must reflect organization's name, Texas address, and be either dated prior to the three year period or establish the date the organization was founded.</p>
<p>Must have a bona fide membership.</p>	<p>Current membership list with all officers and directors noted.</p>
<p>Membership actively and continuously engaged in furthering its authorized purposes for the past three years.</p>	<p>Organizing instrument(s) describing the organization's purposes.</p> <p>Copies of minutes from three annual membership meetings reflecting that the organization voted on the election of officers and reported on matters related to furthering the organization's purpose.</p> <p>Collectively, the three meeting minutes must encompass a (36) thirty-six month period (i.e. one per year).</p> <p>The meeting minutes must be dated and signed by an officer of the organization.</p>
<p>May not authorize or support a public office candidate.</p>	<p>Organizing instrument(s) reflecting that organization has not authorized support or opposition of a public office candidate.</p>
<p>Must demonstrate significant progress toward the</p>	<p>At least three (3) different types of acceptable documents as proof that organization was engaged in furthering its charitable purpose for the time period beginning one year prior to the date the application was signed. Examples of</p>

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

<p>exception of a criminal fraud offense that is a Class C misdemeanor.</p>	<p>to the application to ensure all officers and directors have been disclosed. The Department of Public Safety will conduct a criminal history check on all officers, directors and operators.</p> <p>Any officer, director, or operator not meeting the criminal history background requirement must resign before a license may be issued.</p>
<p>Section 2001.102 License Application Requirements.</p>	<p>If the organization is organized under the law of this state, the organization must be in good standing with the Secretary of State (SOS). The Commission will request additional documentation from the applicant if unable to validate good standing directly with the SOS.</p>
<p>Volunteer Emergency Medical Services Provider:</p>	
<p>Qualifications and Requirements</p>	<p>Necessary Documentation</p>
<p>Must have been organized in Texas for at least three years.</p>	<p>If the applicant is affiliated with a state or national organization, Verification by Parent for Charitable Organization Conductor.</p> <p>If the applicant is not affiliated with a state or national organization, a copy of a listing in a publication such as a national roster or newspaper article naming the organization;</p> <p>Or</p> <p>A letter to the applicant from a government agency.</p> <p>The document submitted must reflect the applicant's name, Texas address, and either be dated three years before the application date or establish the date the organization was founded.</p>
<p>Must demonstrate that the organization has made significant progress toward the</p>	<p>A Call List which shows the type of incident and location for the 12 month period prior to the date the application was signed.</p>

<p>accomplishment of its purposes during the 12 months preceding the date of application.</p>	
<p>Must appoint only the organization's members to serve as operators for the organization.</p>	<p>A current membership list with all officers and directors noted. Membership list will be compared to the persons listed on the application to confirm that only members have been named as operators.</p>
<p>Must ensure that none of the organization's officers, directors and operators have been convicted in any jurisdiction of a gambling or gambling-related offense; and, have not been convicted of a criminal fraud offense, with the exception of a criminal fraud offense that is a Class C misdemeanor.</p>	<p>A signed copy of the applicant organization's organizing instruments, including any bylaws, constitution, charter, and articles of incorporation, that list the officer and director positions;</p> <p>Or</p> <p>If officers and/or directors are not listed in organizing instruments, a current membership list identifying officers and directors.</p> <p>If officer and/or director positions are unfilled, a statement signed by an officer indicating which positions are vacant.</p> <p>The Commission will compare the number of officers and directors included in the documents to the application to ensure all officers and directors have been disclosed.</p> <p>The Department of Public Safety will conduct a criminal history check on all officers, directors and operators.</p> <p>Any officer, director or operator not meeting the criminal history background requirement must resign before a license may be issued.</p>
<p>Section 2001.102 License</p>	<p>Most recent copy of Internal Revenue Service (IRS) Form 990 if organization is required to file it with the IRS.</p>

Application Requirements.	<p>Indicate on application if organization is not required to file Form 990;</p> <p>And</p> <p>A signed copy of the applicant organization's organizing instruments, including any bylaws, constitution, charter, and articles of incorporation;</p> <p>And</p> <p>If the organization is organized under the law of this state the organization must be in good standing with the Secretary of State (SOS). The Commission will request additional documentation from the applicant if unable to validate good standing directly with the SOS.</p>
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Amendment of a License by Electronic Mail, Telephone or Facsimile

1 §402.424. Amendment of a License by Electronic Mail, Telephone or Facsimile.

2 (a) The term "effective date," when used in this section, shall mean the first day that the changes
3 to the day(s) or time(s) bingo is conducted by the organization are to begin.

4 (b) A licensed authorized organization may change the day(s) or time(s) it conducts bingo
5 by electronic mail, telephone or facsimile provided the organization has sufficient amendment
6 license fee credit. The request should be received no later than noon the business day before the
7 requested effective date of the amended license.

8 (1) To change by telephone the day(s) or time(s) the organization conducts bingo, an
9 authorized requestor must speak directly to a License and Permit Specialist in the Licensing
10 Services Department of the Charitable Bingo Operations Division, who will verify the caller's
11 authority to request an amendment.

12 (2) To change by facsimile the day(s) or time(s) the organization conducts bingo, the
13 Commission must receive a complete application at the facsimile number provided on the
14 prescribed application form.

15 (3) To change by electronic mail the day(s) or time(s) the organization conducts bingo,
16 the Commission must receive a complete application at the bingo service electronic mail address
17 provided on the prescribed application form.

18

1 §402.451. Operating Capital.

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

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

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

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

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

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

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

17 (2) prize fees held in the bingo account to be paid to the Commission; and

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

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

1 (d) Licensed Authorized Organization's Calculations.

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

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

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

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

12 (e) Accounting Unit's Calculations.

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

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

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

20 (g) Retained Operating Capital Limits.

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

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

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

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

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

14 (h) Recalculation of Operating Capital.

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

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

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

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

- 1 (i) A licensed authorized organization or unit may apply for an increase in its retained operating
2 capital limit.
- 3 (j) The failure of a licensed authorized organization or unit to receive notification from the
4 Commission of its retained operating capital limit by the effective date does not relieve the
5 organization or unit from complying with the retained operating capital limit.
- 6 (k) All net proceeds in excess of the retained operating capital limit must be disbursed in
7 accordance with the Act and Rules.

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1 §402.500. General Records Requirements.

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

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

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

Debit Card Transactions

1 §402.504. Debit Card Transactions.

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

4 (1) ATM card--An automated teller machine card which allows the holder to withdraw
5 money directly from the holder's bank account. An ATM card is ordinarily utilized in
6 conjunction with a PIN selected by the holder.

7 (2) Check card--Another name for a debit card, a check card may display the logo of the
8 banking institution where the funds supporting the card are held in account.

9 (3) Debit card--A card which may be used as a means of payment under arrangements
10 which do not provide for the extension of credit to the cardholder. The use of a debit card results
11 in a deduction of the transaction amount directly from the cardholder's bank account maintained
12 at the authorizing banking institution. Debit cards come in two forms commonly known as ATM
13 cards and check cards.

14 (4) PIN--A personal identification number which is used as a secure or protected
15 password used in conjunction with a debit card. A PIN may sometimes be used as an electronic
16 signature in transactions involving a debit card.

17 (5) PIN pad--Equipment which may be leased from a vendor and used to identify debit
18 card holders by verifying the authorized PIN submitted during a debit card transaction.

19 (b) A debit card may be accepted only in place of United States currency or a check drawn on a
20 funded bank account.

21 (c) Records.

22 (1) Upon request, a debit card transaction sales receipt must be provided to the purchaser
23 that uses a debit card to buy or use bingo paper/cards, electronic bingo devices or pull tabs. An

1 electronic or hard copy of the debit card transaction sales receipt must be kept by the licensed
2 authorized organization or Unit in order to substantiate compliance with the Bingo Enabling Act
3 and the Charitable Bingo Administrative Rules.

4 (2) Each licensed authorized organization or unit which accepts payment by debit card
5 must maintain records to substantiate:

6 (A) the timely deposit of funds derived from debit card transactions into the
7 organization's or unit's bingo account; and

8 (B) the fees and expenses related to debit card transactions during the calendar
9 quarter in which the debit card transactions occurred.

10 (3) All debit card transactions must be reported on the quarterly reports covering the time
11 period in which the transactions occurred.

12 (4) All records relating to debit card transactions must be kept for four years.

Disbursement Records Requirements

1 §402.506. Disbursement Records Requirements.

2 (a) The licensed authorized organization or unit shall maintain records to substantiate bingo
3 expenses. Bank statements, cancelled checks and cancelled check images may not be adequate
4 to substantiate bingo expenses.

5 (b) Examples of records that are acceptable to substantiate bingo expenses for each type of
6 expense are:

7 (1) Invoices, itemized billing statements, sales receipts, or similar documents that have
8 information about the items purchased or services provided and contain the following details:

9 (A) the name and contact information of the person or entity selling the goods or
10 providing the service;

11 (B) an adequate description of goods or services purchased;

12 (C) the quantity of each product purchased or service received;

13 (D) the price of each product purchased or service received which may include
14 the pricing information for services provided pursuant to a service agreement;

15 (E) the total dollar amount billed; and

16 (F) the date of the transaction.

17 (2) Written lease agreement between the commercial lessor and the licensed authorized
18 organization or unit stating the amount of rent charged for the use of bingo premises. If there is
19 no written agreement, the organization must support the rental payments with an invoice from
20 the lessor stating location, rental dates, and rental amounts by occasion.

21 (3) Rent forgiveness letter or lease amendment signed by the commercial lessor stating
22 the amount of any rent forgiven or permanently or temporarily reduced.

23 (4) Payroll records that include a listing for each employee showing:

- 1 (A) primary position worked;
- 2 (B) date and occasion number worked (if more than one occasion held on a single
3 day);
- 4 (C) total number of hours worked per occasion (if paid hourly);
- 5 (D) rate and criteria (hourly, per occasion, etc.);
- 6 (E) gross wages;
- 7 (F) all taxes and payroll deduction amounts; and
- 8 (G) net payroll amount.
- 9 (5) Federal and state payroll tax returns, including related deposit slips and receipts or
10 other documentation that the deposits were accepted.
- 11 (6) Documentation of the payment of other federal, state, and local taxes, which may
12 include tax returns, 1099's and property tax paid.
- 13 (7) Actual or imaged bank statements, deposit slips and cancelled checks or cancelled
14 check images, to the extent available from the financial institution.
- 15 (8) Debit card transactions reports.
- 16 (9) The purpose, amount and payee for each electronic transfer from the organization's
17 bingo checking account.
- 18 (10) A licensed authorized organization or unit shall maintain records to document any
19 expenses, including incidental expenses, for promotions or door prizes, including any
20 advertisements, flyers, game schedules, or documents reflecting any special pricing structures.
- 21 (c) The licensed authorized organization or unit shall maintain records to document the
22 allocation method for bingo expenses which are shared by organizations in a hall.

1 (d) The licensed authorized organization or unit shall maintain records to document the
2 allocation method for expenses that are divided between bingo and non-bingo operations of the
3 organization and the allocation of the expenditure between bingo expense and charitable
4 distribution.

5 (e) All expenses from the bingo checking account must be listed on a Cash Disbursements
6 Journal on forms provided by the Commission or in another format that shows the information
7 for each check written, electronic fund transfers, bank fees, and cash shortages or overages. If
8 any licensed authorized organized organization maintains its records on a commercially available
9 accounting software package (e.g. Quicken), use of the standard accounting features of the
10 package shall meet the requirements of this section.

11 (1) A Cash Disbursements Journal shall be maintained on a cash basis and include
12 information for checks written, electronic fund transfers, bank fees and cash shortages or
13 overages that are dated during the calendar quarter.

14 (2) Cash Disbursement Journal Required Information:

15 (A) date of check, withdrawal or electronic funds transfer transaction;

16 (B) check number, transaction number or confirmation number;

17 (C) name of payee;

18 (D) amount of expense;

19 (E) expense category--each expense item shall correspond to the category on the
20 Texas Bingo Quarterly Report; and

21 (F) totals--Each expense category shall be totaled quarterly and match the
22 information reported to the Commission on the Texas Bingo Quarterly Report. Any changes

1 made on the Texas Bingo Quarterly Report shall be documented on the Cash Disbursements
2 Journal.

3 (f) A licensed authorized organization or unit shall maintain sufficient funds in the bingo
4 checking account to cover all checks written and electronic fund transfers. Bank fees incurred
5 because the organization fails to maintain sufficient funds in its account to cover expenditures
6 from the bingo account may not be considered a reasonable or necessary expense.

7 (g) All disbursement records must be complete, accurate, legible, and maintained for four (4)
8 years by the licensed authorized organization.

Required Inventory Records

1 §402.511. Required Inventory Records.

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

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

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

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

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

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

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

12 (2) ~~distributor's name and taxpayer number;~~

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

15 (34) number of faces (ON) and number of sheets (UP);

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

18 (56) occasion date(s) the paper was used;

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

20 (78) initials of person entering the information per occasion.

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

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

23 (2) ~~distributor's name and taxpayer number;~~

- 1 | ——— (3) form number;
- 2 | (34) serial number;
- 3 | (45) number of tickets per deal;
- 4 | (56) number of tickets sold, missing, or damaged by occasion date;
- 5 | (67) number of pull-tab tickets remaining if the deal is closed; and
- 6 | (78) occasion date(s) the pull-tab tickets were sold.

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1 §402.514. Electronic Fund Transfers.

2 (a) Electronic Fund Transfers. Electronic fund transfers (EFT) refers to the transfer of funds
3 using a computer system, electronic terminal, telephone, mobile phone, or other non-paper based
4 method that may be used for both credit transfers, such as deposits into an account, and debit
5 transfers, such as deposits into an account, and debit transfers, such as payments from an
6 account.

7 (b) Controls Over Electronic Fund Transfers.

8 (1) Licensed authorized organizations or units shall use for all EFT transactions the same
9 financial policies, procedures, and controls that govern disbursement by check and the receipt of
10 funds into the bingo bank account. (See §2001.452 of the Bingo Enabling Act and §402.505 of
11 this chapter (relating to Permissible Expense) and §402.506 of this chapter (relating to
12 Disbursement Records Requirements)).

13 (2) The licensed authorized organization or unit shall implement the following controls
14 for EFT transactions.

15 (A) Only authorized person(s) shall be allowed to execute an EFT transaction on
16 behalf of the organization or unit.

17 (B) The licensed authorized organization or unit shall maintain documentation of
18 approval of changes in the person(s) authorized to execute electronic funds transfers.
19 Documentation may include but is not limited to: meeting minutes, bank account signature cards,
20 or copies of applications to the financial institution to authorize individuals access to perform on-
21 line banking in association with the bingo bank account or unit bank account.

22 (3) The bingo chairperson, or in the case of an accounting unit, the individual authorized
23 in writing by each unit member's bingo chairperson, and bookkeeper shall review accounting

1 records and bank statements to ensure that only authorized EFTs are executed. Each EFT shall be
2 accounted for when completing monthly bank reconciliations.

3 (c) Recordkeeping for Electronic Funds Transfers.

4 (1) EFT receipts into the bingo bank account shall be recorded in the accounting records.
5 At a minimum the organization or unit must record the following information regarding EFT
6 receipts:

7 (A) payer name;

8 (B) amount paid;

9 (C) date paid;

10 (D) purpose of the funds received; and

11 (E) the EFT confirmation receipt, if provided.

12 (2) The organization or unit shall maintain in its accounting records a copy of each EFT
13 payment transaction together with the invoice or billing statement. The following information
14 must be maintained supporting the payment:

15 (A) payee name;

16 (B) amount paid;

17 (C) date paid;

18 (D) account number from which the transfer is made;

19 (E) nature of payment;

20 (F) the name of the person executing the EFT transaction on behalf of the
21 organization or unit; and

22 (G) the EFT confirmation receipt, if provided.

1 (3) All records relating to electronic fund transfers into or out of the bingo checking
2 account of a licensed authorized organization or unit must be retained for a period of not less
3 than four years.

4 (d) Discrepancies or Misapplication of Electronic Fund Transfers. The bingo chairperson or
5 other person authorized to sign on the bingo bank account shall notify the organization's
6 financial institution immediately to report problems or if it is suspected that someone has access
7 to the bingo bank account without authorization.

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Bingo Reports and Payments

1 §402.600. Bingo Reports and Payments.

2 (a) On or before the 25th of the month prior to the end of the calendar quarter, the Commission
3 will mail the “Texas Bingo Conductor’s Quarterly Reports”, “Texas Lessor Quarterly Reports”,
4 and “Manufacturer/Distributor Quarterly Reports and Supplements” to its licensees.

5 (b) Quarterly reports, supplements, and payments due to be submitted on a date occurring on a
6 Saturday, Sunday, or legal holiday will be due the next business day. The report will be deemed
7 filed when deposited with the United States Postal Service or private mail service, postage or
8 delivery charges paid and the postmark or shipping date indicated on the envelope is the date of
9 filing. For quarterly reports and supplements submitted electronically, the report will be deemed
10 filed as of the date and time sent from the specified e-mail address.

11 (c) Signature provisions.

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

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

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

19 (1) An authorized organization holding an annual license, temporary license, or a
20 temporary authorization to conduct bingo must file on a form prescribed by the Commission or
21 in an electronic format prescribed by the Commission a quarterly report for financial and
22 statistical information relating to the conduct of bingo games. The report and supplements must
23 be filed with the Commission on or before the 25th day of the month following the end of the

1 calendar quarter even if there were no games conducted during that quarter. Failure to file a
2 required report or supplement by the due date may result in an administrative penalty.

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

7 (3) The Commission may deny a renewal application of an authorized organization
8 holding an annual license or revoke a license of an authorized organization holding an annual
9 license if the licensee remits to the Commission two insufficient checks for prize fees within four
10 quarters.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (l) Extensions.

18 (1) Filing extension because of natural disaster.

19 (A) The Director will grant to a licensee who has been identified as a victim of a
20 natural disaster an extension of not more than 90 days to file a quarterly report and
21 supplements or pay prize fees provided the licensee has filed a timely request for an extension. In
22 determining the natural disaster victims, the Commission shall recognize the counties that have
23 been identified by the Office of the Governor or the Comptroller of Public Accounts.

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

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

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

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

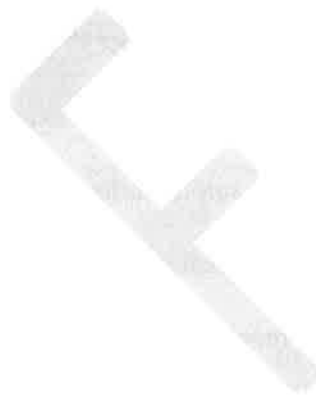
14 (B) The granting of a request is within the discretion of the Director and the
15 licensee will be notified in five working days of the request of the decision of the Director.

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

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

21 (m) Rounding. Quarterly report entries must be rounded to whole dollar amounts, where
22 indicated. To round off amounts to the nearest whole dollar, drop amounts under 50 cents and
23 increase amounts from 50 - 99 cents to the next dollar. A quarterly report will not be considered

- 1 inaccurate based on rounding numbers provided that such rounding does not result in more than
- 2 a \$5.00 variance when all entries are summed up.



Waiver of Penalty, Settlement of Prize Fees, Rental Tax, Penalty and/or Interest

1 §402.602. Waiver of Penalty, Settlement of Prize Fees, Rental Tax, Penalty and/or Interest.

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

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

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

13 (B) Whether the licensee is current in the payment of all taxes or prize fees due
14 for the last eight consecutive quarters;

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

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

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

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

22 (b) If a prize fee or rental tax is owed for an inactive account, the Charitable Bingo Operations
23 Division will not consider a request for a penalty or interest waiver until the principal is paid in

1 full. The Division will notify the inactive account that a prize fee or rental tax is owed and
2 provide the inactive account with any existing documents that support the delinquency
3 determination. The Division may provide such notice and documentation to any officer, director,
4 or business contact listed in the inactive account's most recent filing with the Commission.

5 ~~Failure to produce documents supporting the delinquency determination does not limit the~~
6 ~~Division's ability to collect the debt.~~

7 (c) Settlement of rental tax, gross receipts tax, prize fee, penalty or interest on an inactive
8 account. The Commission may settle a claim for rental tax, gross receipts tax, prize fee, penalty,
9 or interest if the total cost of collection, as determined by the Commission, would exceed the
10 total amount due.

1 §402.603. Bond or Other Security.

2 (a) Bond or Other Security Required.

3 (1) An applicant for a regular license to conduct charitable bingo must submit security
4 consistent with the provisions of this section. A licensed authorized organization must maintain
5 the security until the organization ceases to conduct bingo and the license is relinquished or
6 revoked.

7 (A) Except as otherwise provided in this section, the security amount for a regular
8 license to conduct charitable bingo is based on the license class. The security amount is:

9 (i) Class A - \$125.00.

10 (ii) Class B - \$325.00.

11 (iii) Class C - \$600.00.

12 (iv) Class D - \$825.00.

13 (v) Class E - \$1,225.00.

14 (vi) Class F - \$1,800.00.

15 (vii) Class G - \$2,125.00.

16 (viii) Class H - \$2,675.00.

17 (ix) Class I - \$3,275.00.

18 (x) Class J - \$7,000.00

19 (B) If at any time a licensed authorized organization fails to fully pay its requisite
20 prize fees by the due date and a jeopardy determination becomes final, then the organization's
21 security amount may be calculated at three times its highest quarterly prize fee for the four most
22 recent quarters or for the highest quarter filed if less than four.

1 (C) If a licensed authorized organization has fully paid all prize fees and
2 associated penalties, if any, prior to a final jeopardy determination for eight (8) consecutive
3 quarters, the amount of the requisite security will be reduced to \$100.00. If at any time an
4 organization paying the reduced security amount fails to fully pay its requisite prize fees and any
5 associated penalties and interest by the due date and a jeopardy determination becomes final,
6 then the Commission may calculate the organization's security amount in accordance with
7 §402.603(a)(1)(A) or (B) of this chapter.

8 (2) An applicant for a manufacturer's license must submit a cash bond or bond in the
9 amount of \$10,000 issued by a surety company chartered or authorized to do business in this
10 state. A licensed manufacturer must maintain the bond until the license is relinquished or
11 revoked.

12 (3) An applicant for a unit manager license must submit security consistent with the
13 provisions of this section. A licensed unit manager must maintain the security until the license is
14 relinquished or revoked.

15 (A) Except as otherwise provided in this section, the unit manager's security
16 amount shall be the aggregate of each unit member organization's security amount, as set in
17 §402.603(a)(1) of this chapter.

18 (B) If at any time a unit manager fails to fully pay the unit's requisite prize fees by
19 the due date and a jeopardy determination becomes final, the security amount may be calculated
20 at three times the unit's highest quarterly prize fee liability for the four most recent quarters or for
21 the highest quarter filed if less than four. If the unit manager changes, the new unit manager must
22 file security.

1 (C) Members of an accounting unit with a licensed unit manager are not required
2 to submit security until the member withdraws or is removed from the unit.

3 (4) Accounting Units.

4 (A) An accounting unit may submit and maintain one bond or other security to
5 cover each of the unit's member organizations. Except as otherwise provided in this section, the
6 amount of the security shall be the aggregate of each unit member organization's security
7 amount, as set in §402.603(a)(1) of this chapter. If a unit member organization subsequently
8 withdraws or is removed from the unit, that organization is responsible for obtaining and
9 maintaining the requisite security.

10 (B) If at any time an accounting unit fails to fully pay its requisite prize fees by
11 the due date and a jeopardy determination becomes final, the unit's security amount may be
12 calculated at three times the unit's highest quarterly prize fee liability for the four most recent
13 quarters or for the highest quarter filed if less than four. The financial obligation for such
14 security shall be divided equally among the organizations that were in the unit at the time of the
15 prize fee delinquency. If a unit member organization withdraws or is removed from such a unit,
16 that organization's security amount shall be equivalent to its share of the unit's security amount,
17 and the unit's security amount may be reduced by an amount equivalent to the exiting
18 organization's share. If another organization subsequently joins such a unit, the unit's security
19 amount will increase by the amount of the newly-joined organization's security amount.

20 (b) Types of bonds or other security. The Commission will accept only the following types of
21 bonds or other security as security for the payment of prize fees:

22 (1) Cash or check made payable to the state comptroller. Cash security will not earn
23 interest for the licensee.

1 (2) Irrevocable assignments of accounts, including certificates of deposit or certificates of
2 savings, in banks, savings and loan institutions, and credit unions, whose deposits are insured by
3 an agency of the United States government. This security must be executed on an assignment
4 form approved by the Commission.

5 (3) Letters of credit from financial institutions.

6 (4) United States Treasury bonds, readily convertible to cash.

7 (5) Surety bonds executed on a form approved by the Commission and issued only by a
8 surety company chartered or authorized to do business in the State of Texas. The appointing
9 instrument must be properly notarized and physically attached to the bond.

10 (c) Forfeiture.

11 (1) If a licensed authorized organization, accounting unit, or unit manager pays less than
12 the total amount of prize fee due, the Commission shall notify the licensed' authorized
13 organization, accounting unit, or unit manager of the delinquency via the "Texas Notice of Fee
14 Due and Jeopardy Determination" for the quarter in which the liability exists.

15 (2) If the licensed authorized organization, accounting unit, or unit manager does not
16 make the required payment by the date stated in the notice provided under subsection (c)(1), the
17 Commission will demand the bond or other security or any part of the bond or other security
18 from the holder of the bond or other security necessary to pay the amount of prize fee due.

19 (3) The Commission will notify the licensed authorized organization, accounting unit, or
20 unit manager and demand that a new or additional bond or other security for the specified
21 amount be furnished within 20 days of the date of such notice. Failure to comply with the
22 requirements of the notice within the 20 day period will result in the denial of an application for
23 renewal or revocation of the license.

1 (d) Release of Bond or Other Security. The Commission will release a bond or other security
2 upon the relinquishment or revocation of the license for which the security was furnished,
3 provided that the Commission determines that no prize fee, penalty, or interest remains due and
4 payable. The Commission will notify the former licensee in writing that the security has been
5 released. If an accounting unit maintains one bond or other security for its member organizations,
6 and one or more of the unit member's licenses are relinquished or revoked, then the Commission
7 will notify the accounting unit in writing that its security amount may be reduced to an amount
8 sufficient to cover only current unit members.

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1 §402.703. Audit Policy.

2 (a) Definitions.

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

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

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

12 (b) Audit Determination.

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

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

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

1 (c) Notification.

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

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

11 (d) Entrance Conference.

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

1 shall schedule the audit entrance conference and send the licensee written notice of that fact at
2 least ten (10) calendar days prior to the scheduled audit entrance conference.

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

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
14 conference.

15 (e) Audit Fieldwork. Any time after the conclusion of the audit entrance conference, the
16 auditor(s) may initiate and conduct the audit fieldwork at the licensee's business office, bingo
17 premises, bookkeeper's office, or accountant's office; or, a location designated by the auditor(s).

18 When conducting audit fieldwork, the auditor(s), at their discretion, may use a detailed auditing
19 procedure or a sample and projection auditing method. A sample and projection auditing method
20 may include, but is not limited to, manual sampling techniques, computer-assisted audit
21 techniques, analytical procedures, financial projections, and auditor recompilation from reliable
22 independent sources.

23 (f) Exit Conference.

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

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

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

15 (g) Audit Report.

16 (1) Upon completion of the audit, the auditor(s) will prepare a draft audit report
17 containing their findings and conclusions. A copy of the draft audit report will be provided to the
18 licensee at the audit exit conference. At least three (3) business days before the audit exit
19 conference, but only to the extent it is practicable, the Commission will also send a copy of the
20 draft audit report to one e-mail address or facsimile number associated with the licensee. The
21 licensee must notify the Commission of the designated e-mail address or facsimile number by the
22 end of the audit entrance conference if the licensee is to receive a copy of the draft audit report
23 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)
3 calendar days of receiving the draft audit report. Written comments should include a statement of
4 agreement or disagreement with the draft audit report findings and, if applicable, a list of any
5 corrective measures that will be taken to ensure compliance with the Bingo Enabling Act and
6 Charitable Bingo Administrative Rules. Any properly submitted comments and supporting
7 documents will be reviewed by the auditor(s) and placed in the final audit report. The auditor(s)
8 may revise the draft audit report in response to any properly submitted comments or supporting
9 documents.

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

1 §402.706. Schedule of Sanctions.

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

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

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

19 Figure: 16 TAC §402.706(c)

20 **Standard Administrative Penalty Chart**

21 **Category 1**

22 **\$0 (Warning) to \$1,000 for the 1st offense, except a 1st offense for Violation**
23 **No. 6 involving gambling devices may result in up to \$1000 administrative penalty**
24 **and/or license suspension, revocation or denial, or registry removal or denial**

- 1 **\$0 (Warning) to \$1,000 and/or license suspension, revocation or**
 2 **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.

- 3 **Category 2**
 4 **\$0 (Warning) to \$600 for the 1st offense**
 5 **\$0 (Warning) to \$800 for the 2nd offense**
 6 **\$0 (Warning) to \$1,000 and/or license suspension, revocation or denial, or**
 7 **registry removal or denial for the 3rd offense**

No.	Violation
7	The organization conducted bingo outside of the licensed time.
8	The organization sold 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)).

1 **Category 3**

2 **\$0 (Warning) to \$400 for the 1st offense**

3 **\$0 (Warning) to \$600 for the 2nd offense**

4 **\$0 (Warning) to \$800 for the 3rd offense (Violation Nos. 18, 22, 23 – 28)**

5 **\$0 (Warning) to \$1,000 and/or license suspension, revocation or denial, or**
6 **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	Deposits were made later than the end of the second business day following the day of the bingo occasion on which the receipts were obtained, except as provided by Subsection (b-1).

- 1 **Category 4**
2 **\$0 (Warning) to \$300 for the 1st offense**
3 **\$0 (Warning) to \$450 for the 2nd offense**
4 **\$0 (Warning) to \$600 for the 3rd offense**

No.	Violation
29	The organization or unit deposited funds, other than from the conduct of bingo, in the bingo account.
30	The organization failed to clearly identify the conductor, by name exactly as it is shown on the license, on an advertisement or promotion of a bingo occasion.
31	Check(s) or slip(s) were made payable to 'cash', 'bearer', or to a fictitious payee.
32	Checks did not contain the required information.

- 5 **Category 5**
6 **\$0 (Warning) to \$200 for the 1st offense**
7 **\$0 (Warning) to \$300 for the 2nd offense**
8 **\$0 (Warning) to \$400 for the 3rd offense**

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

- 9 **Category 6**
10 **\$0 (Warning) to \$100 for the 1st offense**
11 **\$0 (Warning) to \$150 for the 2nd offense**
12 **\$0 (Warning) to \$200 for the 3rd offense**

No.	Violation
35	The organization failed to withdraw funds from the bingo account by preprinted, consecutively numbered checks or withdrawal slips.
36	The organization failed to keep and account for all checks, including voided checks and slips.

- 1 **Category 7**
- 2 **\$0 (Warning) for the 1st offense**
- 3 **\$0 (Warning) for the 2nd offense**
- 4 **\$0 (Warning) to \$1,000 for the 3rd offense**

No.	Violation
37	The organization failed to obtain, maintain, keep current and make available for review to any person upon request a copy of the Bingo Enabling Act and the Rules of the Commission.

- 5
- 6 (d) The following words and terms, when used in this section and §402.707, shall have the
- 7 following meanings, unless the context clearly indicates otherwise:
- 8 (1) Bingo Enabling Act--Occupations Code, Chapter 2001.
 - 9 (2) Charitable Bingo Administrative Rules--Texas Administrative Code, Title 16, Part 9,
 - 10 Chapter 402.
 - 11 (3) Licensee--a person issued a license under Occupations Code, Chapter 2001, or a Unit.
 - 12 (4) Organization--a licensee, an applicant for a license, or a person required to obtain a
 - 13 bingo license.
 - 14 (5) Respondent--a person responsible for answering a charge of violating the Bingo
 - 15 Enabling Act and/or the Charitable Bingo Administrative Rules.
 - 16 (6) Sanctions--revocation and suspension of a license, denial or an original or renewal
 - 17 application, denial of a bingo worker registry application, removal from the registry of bingo
 - 18 workers, administrative penalty, and warning letter.

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

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

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

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

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

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

- 1 (1) seriousness of the violation which includes the nature, circumstances, extent and
2 gravity of the prohibited acts;
- 3 (2) history of previous violations which includes:
 - 4 (A) the number of previous violations; and
 - 5 (B) the number of repeated violations;
- 6 (3) the action(s) necessary to deter future violations;
- 7 (4) efforts to correct the violation after awareness of the violation through personal
8 knowledge or notification by the commission;
- 9 (5) any other matter that justice may require, including:
 - 10 (A) whether the violation was intentional, inadvertent, simple negligence, gross
11 negligence, or the unavoidable result of a related violation;
 - 12 (B) cooperation with the Commission during its examination, audit, or
13 investigation of the person;
 - 14 (C) length of time the licensee has held a license;
 - 15 (D) risk to the public or state;
 - 16 (E) whether the organization or person has acknowledged a violation and agreed
17 to comply with the terms and conditions of remedial action through an agreed settlement with the
18 Commission; and
 - 19 (F) the cost of the investigation, examination or audit associated with the
20 violation.
- 21 (k) If the Director or the Director's designee and the authorized representative for the respondent
22 agree, the two parties may utilize §402.707, Expedited Administrative Penalty Guideline as
23 alternative guidance related to this subsection.

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

DRAFT

Expedited Administrative Penalty Guideline

1 §402.707. Expedited Administrative Penalty Guideline.

2 (a) The purpose of this subchapter is to provide an alternative disciplinary procedure for certain
3 violations of the Bingo Enabling Act (Act) and the Charitable Bingo Administrative Rules
4 (Rules) in which the Director of the Charitable Bingo Operations Division seeks to facilitate
5 expeditious resolution of cases and encourage settlements.

6 (b) The list of statutory violations in the Expedited Administrative Penalty Chart is not an
7 exclusive list of violations that may be expedited. The scope of this guideline will be limited to
8 violations of the Bingo Enabling Act and/or the Charitable Bingo Administrative Rules that are
9 identified by the Director or their designee.

10 (c) Upon completion of an examination, inspection, audit, or investigation, and after which both
11 parties have agreed that an alleged violation of the Bingo Enabling Act or the Charitable Bingo
12 Administrative Rules can be resolved expeditiously, the Director or their designee may cause a
13 Notice of Administrative Violation and Settlement Agreement (NAVSA) to be issued to an
14 authorized representative for the respondent.

15 (d) The NAVSA shall include the following information:

16 (1) date of the notice;

17 (2) names and addresses of both parties;

18 (3) a brief summary of the alleged violation;

19 (4) the dollar amount of the administrative penalty recommended by the Director or his
20 designee;

21 (5) a brief explanation of the additional conditions required to ensure future compliance
22 with the Act or Rules alleged to be violated;

1 (6) notice that an investigation, including an examination or audit, was conducted which
2 alleges a violation was committed;

3 (7) a statement signed by an authorized representative for the respondent indicating the
4 respondent agrees to the terms of the settlement being offered;

5 (8) notice that if the person does not accept the settlement offered, they may request an
6 informal dispute resolution conference in accordance with §402.708 of this chapter or a hearing
7 on the occurrence of the violation, the amount of the penalty or both; and

8 (9) notice that if the person does not accept the settlement offered or request a hearing,
9 the Commission may seek the maximum penalty authorized for the violation under the Bingo
10 Enabling Act and the Charitable Bingo Administrative Rules, which may include revocation,
11 suspension or denial of the person's license or worker registration, or application for a license or
12 worker registration as applicable.

13 (e) The respondent shall have 20 calendar days from the date the respondent receives the
14 NAVSA to accept the recommendation of the Director, including the recommended
15 administrative penalty; or make a written request for a hearing on the determination. The
16 respondent shall have 10 calendar days from the date the respondent receives the NAVSA to
17 request an informal dispute resolution conference, which must occur within 20 calendar days of
18 the respondent's receipt of the NAVSA. If notification of acceptance or the written request for a
19 hearing is not made within 20 days, or if an informal dispute resolution conference does not
20 resolve the dispute, the Director shall cause a hearing to be set and give notice of the hearing to
21 the respondent. The opportunity for an agreement in accordance with this subsection will expire.

22 (f) After the NAVSA is accepted and returned to the Commission, the NAVSA will be
23 forwarded to the Director for final approval and a copy will be forwarded to the respondent along

1 with the Order. The respondent will have 60 days from the date of the Order to pay the
 2 recommended administrative penalty. Failure to comply with the terms of this Agreement may
 3 result in the imposition of a more severe degree of penalty which may include the revocation,
 4 suspension, denial of the license or worker registration, or removal from the worker registry as
 5 applicable.

6 (g) If a person is charged with a repeat violation that may be expedited within 36 months (3
 7 years) of the first violation, then the penalty for a repeat violation will be imposed according to
 8 the Expedited Administrative Penalty Chart for repeat violations.

9 Figure: 16 TAC §402.707(g)

10
 11

Expedited Administrative Penalty Chart

Violation	Penalty
The organization conducted bingo outside of the licensed time.	1 st Offense - \$200 2 nd Offense - \$300 3 rd Offense - \$500
The organization sold pull-tab bingo tickets at an unauthorized time.	1 st Offense - \$200 2 nd Offense - \$300 3 rd 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 st Offense - Warn 2 nd Offense - \$300 3 rd Offense - \$500
The organization failed to have an authorized operator present at the bingo occasion.	1 st Offense - \$200 2 nd Offense - \$300 3 rd Offense - \$500
The limit of \$750.00 was exceeded on a single prize for regular or pull-tab bingo.	1 st Offense - \$200 2 nd Offense - \$300 3 rd Offense - \$500
Prizes with an aggregate value of more than \$2,500.00 for bingo games other than pull-tab bingo and prizes of \$50 or less games, as described in §2001.420(b)(2) of the Occupations Code, were offered or awarded for a single bingo occasion.	1 st Offense - \$200 2 nd Offense - \$300 3 rd Offense - \$500
The organization failed to prevent bingo workers from playing bingo.	1 st Offense - \$150 2 nd Offense - \$225 3 rd Offense - \$375

The organization offered or provided to a person the opportunity to play bingo without charge.	1 st Offense - \$150 2 nd Offense - \$225 3 rd 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 st Offense - \$100 2 nd Offense - \$150 3 rd 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 st Offense - \$50 2 nd Offense - \$75 3 rd Offense - \$125
A door prize with a value of more than \$250.00 was offered or awarded.	1 st Offense - \$50 2 nd Offense - \$75 3 rd 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 formal complaint with the Commission.	1 st Offense - \$30 2 nd Offense - \$45 3 rd 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 st Offense - \$30 2 nd Offense - \$45 3 rd 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	1 st Offense - Warn 2 nd Offense - Warn 3 rd Offense - \$75

Enabling Act and the Rules of the Commission.	
Violations by a Worker	
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 st Offense - Warn 2 nd Offense - \$45 3 rd 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 st Offense - Warn 2 nd Offense - \$20 3 rd Offense - \$35

1

1 §402.708.Dispute Resolution.

2 (a) What are the definitions for the terms used in this rule?

3 (1) Determination letter--A notice issued by the director stating the basis for the
4 conclusion that a violation occurred, recommending that an administrative penalty be imposed
5 on the person alleged to have committed the violation, and recommending the amount of the
6 proposed penalty. The notice must include a brief summary of the alleged violation; include the
7 amount of the administrative penalty recommended; and inform the person of the person's right
8 to a hearing on the occurrence of the violation, the amount of the penalty, or both.

9 (2) Dispute resolution--An informal process available to licensees to resolve regulatory
10 disputes in a fair, competent, and consistent manner.

11 (3) Dispute resolution conference--An informal meeting to resolve a disputed issue(s)
12 related to a Notice of Administrative Violation and Settlement Agreement (NAVSA), an audit
13 finding(s) contained within a final audit report, a determination letter or a notice of opportunity
14 to show compliance letter.

15 (4) You must submit the completed Request for Informal Dispute Resolution Form no
16 later than 15 working days from the latest date of receipt of a determination letter, the final audit
17 report, or notice of opportunity to show compliance letter.

18 (b) Who may request a dispute resolution conference? A licensee that does not agree with the
19 findings in its NAVSA, final audit report, determination letter or the information in a notice of
20 opportunity to show compliance letter may request a dispute resolution conference.

21 (c) How do I request a dispute resolution conference?

22 (1) You may request a dispute resolution conference by completing and submitting a
23 Request for Informal Dispute Resolution to the Director.

1 (2) Disputed issues must be identified on the request.

2 (3) The request must be signed by:

Figure: 16 TAC §402.708(c)(3)	
If:	Then:
Licensed Authorized Organization	Officer/director or bingo chairperson
Unit with Trustee Organization	Trustee organization officer/director or bingo chairperson and designated agent
Unit with Designated Agent	Designated agent and officer/director or bingo chairperson for each member organization
Unit with Unit Manager	Unit manager
Commercial Lessor	Officer, Director, or Owner

3

4 (4) A request for a dispute resolution conference related to a NAVSA must be submitted
5 in accordance with §402.707(e). All other requests for a dispute resolution conference must be
6 submitted no later than 15 working days from the latest date of receipt of a determination letter,
7 the final audit report, or notice of opportunity to show compliance letter.

8 (5) You may provide supporting documentation related to your position with your
9 request.

10 (d) Under what circumstances will the Director deny a request for a dispute resolution
11 conference? The Director will not grant a request for a dispute resolution conference if:

12 (1) You are not a licensee that disputes the findings in the NAVSA, final audit report,
13 determination letter or the information in a notice of opportunity to show compliance letter;

14 (2) You fail to timely submit the completed Request for Informal Dispute Resolution as
15 required in subsection (c)(4) of this section or §402.707(e) of this chapter; or

16 (3) A dispute resolution conference has been held previously on the disputed issue(s).

17 (e) When and where will the Dispute Resolution Conference be held?

1 (1) Charitable Bingo Operations Division staff will contact you within 15 calendar days
 2 from the date we receive a Request for Informal Dispute Resolution, in order to schedule a
 3 mutually agreeable date, time, and location for the dispute resolution conference. However, for
 4 conferences related to a NAVSA, the Division will contact the respondent in sufficient time to
 5 schedule the conference within 20 days of the respondent's receipt of the NAVSA, as required
 6 under §402.707(e).

7 (2) The dispute resolution conference may be held in person, by video conference, or by
 8 telephone conference call. The date, time, and location of the conference must be agreeable to all
 9 parties.

10 (3) You must contact the Commission at least 24 hours prior to the scheduled conference
 11 time to reschedule a dispute resolution conference. However, in the event of unforeseen events,
 12 upon agreement of the parties, a dispute resolution conference may be rescheduled.

13 (f) What happens if I don't attend or reschedule a Dispute Resolution Conference? The dispute
 14 resolution process will end. The administrative process will continue and a formal
 15 hearing may proceed. We will notify you of the date of the administrative hearing.

16 (g) Who attends the Dispute Resolution Conference? Depending on your regulatory
 17 classification, certain individuals from your organization must attend the dispute resolution
 18 conference. You must notify the Director at least 24 hours before the scheduled dispute
 19 resolution conference of who is attending.

20 Figure: 16 TAC §402.708(g)
 21

If:	Required to attend:	May attend:
Licensee	Officer, director or bingo chairperson and primary operator	Any officer or director, other persons designated by the licensee including legal counsel, bookkeeper, or accountant
Unit with Trustee	Trustee organization	Other member organizations' bingo

Organization	officer, director or bingo chairperson, primary operator, and designated agent	chairperson, any officer or director, other persons designated by the licensee including legal counsel, bookkeeper, or accountant
Unit with Designated Agent	Designated agent, officer, director or bingo chairperson for member organizations, primary operators for member organizations.	Any officer or director for member organizations, other persons designated by the licensee including legal counsel, bookkeeper, or accountant
Unit with Unit Manager	Unit manager	Bingo chairperson, primary operator and any officer or director for member organizations, other persons designated by the licensee including legal counsel, bookkeeper, or accountant
Commercial Lessor	Officer, director, or owner	Other persons designated by the licensee including legal counsel, bookkeeper, or accountant

1 (h) Who will represent the Charitable Bingo Operations Division at a Dispute Resolution
2 Conference?

3 (1) Appropriate Commission staff from the Charitable Bingo Operations Division, Legal
4 Services Division, and/or Enforcement Division will attend and participate in the dispute
5 resolution conference to provide relevant information and documentation regarding the disputed
6 issues and to attempt to reach a resolution of the dispute.

7 (2) The dispute resolution officer and dispute resolution support staff will facilitate the
8 dispute resolution process but will not advocate on behalf of any party.

9 (i) What happens at the Dispute Resolution Conference?

10 (1) Each party states their position related to the disputed issues and presents appropriate
11 documentation to substantiate their position on all disputed issues.

12 (2) The dispute resolution officer works with the parties to reach a settlement.

13 (3) Any resolution reached as a result of the dispute resolution conference will be through
14 voluntary agreement of the parties.

1 (j) Do I need to provide any information prior to the Dispute Resolution Conference? If the
2 Dispute Resolution Conference is conducted via telephone or video conferencing, you must
3 provide to the Director a copy of any documentation you plan to present at least 48 hours prior to
4 the conference. If the basis of the dispute involves an audit finding, the Director will provide the
5 dispute resolution officer with the information submitted by the organization, the final audit
6 report, and the determination letter. If the basis of the dispute is other than an audit finding, the
7 Director will provide the dispute resolution officer the notice of opportunity to show compliance
8 letter and the underlying report that is the basis for the notice of opportunity to show compliance
9 letter. The dispute resolution officer may contact both parties and request additional information
10 be submitted to him prior to the dispute resolution conference.

11 (k) What happens if an agreement is reached at the dispute resolution conference?

12 (1) If the parties agree to a resolution of disputed issues, the dispute resolution officer
13 will prepare a Dispute Resolution Settlement Agreement for review, approval, and signature by
14 both parties at the dispute resolution conference.

15 (2) The Agreement will include:

- 16 (A) the violation(s);
17 (B) the resolution of the disputed issues(s); and
18 (C) corrective action you must take.

19 (3) The Agreement must be signed by an officer, director, or bingo chairperson and the
20 primary operator.

21 (l) What happens if an agreement is not reached at the dispute resolution conference? The matter
22 may proceed to a formal administrative hearing.

Military Service Members, Military Veterans, and Military Spouses

1 The Texas Lottery Commission (Commission) adopts amendments to 16 TAC §402.413
2 (Military Service Members, Military Veterans, and Military Spouses), without changes to the
3 proposed text as published in the April 29, 2016 issue of the *Texas Register* (41 TexReg 3067).
4 The purpose of the new rule is to implement Occupations Code Chapter 55, which requires state
5 agencies that issue occupational licenses to adopt rules and policies pertaining to the licensing of
6 active duty military personnel, their spouses, and military veterans. Among other things,
7 Chapter 55 requires agencies to: (1) exempt active duty military personnel from late license
8 renewal fees/penalties under certain circumstances; (2) quickly process applications and issue
9 licenses for active duty military personnel, their spouses, and military veterans; and (3) waive
10 license fees for active duty military personnel, their spouses, and military veterans in certain
11 circumstances. The new rule 402.413 is intended to satisfy the Commission's obligations under
12 Chapter 55.

13 A public comment hearing was held on Wednesday, May 11, 2016 at 10:00 a.m., at 611
14 E. 6th Street, Austin, Texas 78701. The following persons provided oral comments at the
15 hearing: Kimberly L. Kiplin for Department of Texas, Veterans of Foreign Wars (VFW); and
16 Steve Bresnen for the Bingo Interest Group (BIG). The Commission also received written
17 comments from the VFW and Stephen Fenoglio for Texas Charity Advocates (TCA).

18 COMMENT SUMMARY: The VFW supports the proposed new rule. The TCA has no
19 objection to the proposed new rule.

20 COMMISSION RESPONSE: No changes will be made in response to these comments.

21 COMMENT SUMMARY: The BIG commented they would like the Commission to
22 expand the application of the proposed rules to any corporation that is wholly owned by an
23 individual(s) who is specifically covered by Chapter 55.

1 COMMISSION RESPONSE: No changes will be made in response to this comment.
2 The Commission appreciates the BIG’s desire to expand the scope of the rule to corporations that
3 are wholly owned by individuals to whom Chapter 55 expressly applies. The provisions of
4 Chapter 55 apply to “a person who is on active duty” (definition of “military service member”),
5 “a person who is married to a military service member” (definition of “military spouse”), and “a
6 person who has served on active duty and who was discharged or released from active duty”
7 (definition of “military veteran”). The Texas Code Construction Act (at Government Code
8 §311.005(2)) provides that a “person” includes a corporation unless the statute or context in
9 which the term “person” is used requires a different definition. Under Chapter 55, a “person”
10 could not include a corporation because a corporation could not satisfy the active duty or
11 marriage requirement, and the Commission has no authority to expand the Chapter 55
12 definitions. A state agency, such as the Commission, may not “exercise what is effectively a
13 new power, or a power contradictory to statute, on the theory that such a power is expedient for
14 administrative purposes.” *Pub. Util Comm’n of Tex. v. City Pub. Serv. Bd. of San Antonio*, 53
15 S.W.3d 310, 316 (Tex. 2001). Accordingly, it would be up to the Legislature, not the
16 Commission, to expand the scope of Chapter 55 to include corporations or other legal entities.

17 The new rule is adopted under: (1) Chapter 55 of the Occupations Code (specifically
18 §§55.002, 55.004, 55.007, and 55.008), which requires state agencies to adopt rules related to the
19 issuance of licenses to active duty military personnel, their spouses, and military veterans; (2)
20 §2001.054 of the Occupations Code, which authorizes the Commission to adopt rules to enforce
21 and administer the Bingo Enabling Act; and (3) §467.102 of the Government Code, which
22 authorizes the Commission to adopt rules for the enforcement and administration of Chapter 467

1 and the laws under the Commission's jurisdiction. The new rule, as adopted, has been reviewed
2 by legal counsel and found to be a valid exercise of the agency's legal authority.

3 This adoption implements Chapters 55 and 2001 of the Occupations Code.

4 §402.413. Military Service Members, Military Veterans, and Military Spouses.

5 (a) The following terms used in this section are defined in §55.001 of the Occupations Code as
6 follows:

7 (1) "Active duty" means current full-time military service in the armed forces of the
8 United States or active duty military service as a member of the Texas military forces, as defined
9 by §437.001, Government Code, or similar military service of another state.

10 (2) "Armed forces of the United States" means the army, navy, air force, coast guard, or
11 marine corps of the United States or a reserve unit of one of those branches of the armed forces.

12 (3) "Military service member" means a person who is on active duty.

13 (4) "Military spouse" means a person who is married to a military service member.

14 (5) "Military veteran" means a person who has served on active duty and who was
15 discharged or released from active duty.

16 (b) As soon as practicable after a military service member, military veteran, or military spouse
17 applies in his or her individual capacity for a commercial lessor license, distributor license,
18 manufacturer license, unit manager license, or listing on the bingo worker registry, the
19 Commission will process the application and, if warranted, issue the license or list the applicant
20 on the bingo worker registry. A military service member or military veteran must provide the
21 Commission with definitive proof of his or her current or prior military service. A military
22 spouse must provide the Commission with:

23 (1) definitive proof of his or her spouse's current military service; and

1 (2) his or her official marriage certificate or other definitive proof of his or her marriage
2 to a military service member.

3 (c) The Commission will waive the license or bingo worker registry fee for a military service
4 member or military veteran that applies in his or her individual capacity for a commercial lessor
5 license, distributor license, manufacturer license, unit manager license, or listing on the bingo
6 worker registry. The applicant must provide the Commission with definitive proof of the
7 applicant's current or prior military service.

8 (d) The Commission will waive the license or bingo worker registry fee for a military spouse that
9 applies in his or her individual capacity for a commercial lessor license, distributor license,
10 manufacturer license, unit manager license, or listing on the bingo worker registry, provided that
11 the applicant holds a current license issued by another state or jurisdiction that is substantially
12 equivalent to the license or bingo worker registry for which the applicant is applying. The
13 applicant must provide the Commission with:

14 (1) definitive proof of his or her spouse's current military service;

15 (2) his or her official marriage certificate or other definitive proof of his or her marriage
16 to a military service member; and

17 (3) a photocopy of his or her current out-of-state license that is substantially equivalent to
18 the license or bingo worker registry for which the applicant is applying.

19 (e) An individual licensed in his or her individual capacity as a commercial lessor, distributor,
20 manufacturer, or unit manager is exempt from the late license renewal fee provided for in
21 §402.411(e) of this chapter if the individual can demonstrate, to the satisfaction of the
22 Commission, that the individual failed to renew his or her license in a timely manner because the
23 individual was serving as a military service member.

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TITLE 16. ECONOMIC REGULATION

PART 9. TEXAS LOTTERY COMMISSION

CHAPTER 402. CHARITABLE BINGO OPERATIONS DIVISION

The Texas Lottery Commission (Commission) proposes amendments to 16 TAC §402.103 (Training Program), §402.200 (General Restrictions on the Conduct of Bingo), §402.203 (Unit Accounting), §402.205 (Unit Agreements), §402.210 (House Rules), §402.300 (Pull-Tab Bingo), §402.301 (Bingo Card/Paper), §402.303 (Pull-tab or Instant Bingo Dispensers), §402.324 (Card-Minding Systems—Approval of Card-Minding Systems), §402.325 (Card-Minding Systems—Licensed Authorized Organizations Requirements), §402.400 (General Licensing Provisions), §402.404 (License and Registry Fees), §402.407 (Unit Manager), §402.411 (License Renewal), §402.420 (Qualifications and Requirements for Conductor License), §402.424 (Amendment of a License by Telephone or Facsimile), §402.451 (Operating Capital), §402.500 (General Records Requirements), §402.504 (Debit Card Transactions), §402.506 (Disbursement Records Requirements), §402.511 (Required Inventory Records), §402.514 (Electronic Fund Transfers), §402.600 (Bingo Reports and Payments), §402.602 (Waiver of Penalty, Settlement of Prize Fees, Rental Tax, Penalty and/or Interest), §402.603 (Bond or Other Security), §402.703 (Audit Policy), §402.706 (Standard Administrative Penalty Guideline), §402.707 (Expedited Administrative Penalty Guideline), and §402.708 (Dispute Resolution).

The proposed rule amendments are a result of both the Commission's recent rule review conducted in accordance with Texas Government Code §2001.039, and several stakeholder meetings between Commission staff and various representatives of the bingo community. The Commission solicited from these representatives any proposed rule changes desired by the bingo community, and the proposed changes were discussed at length in the meetings. Many (but not all) of the bingo community's proposed changes are reflected in this rulemaking proposal, as are certain other changes identified in the rule review and/or desired by the Commission.

The proposed amendment to §402.103 removes an obsolete reference to the "Bingo Bulletin," which is no longer published.

The proposed amendments to §402.200 affect the general conduct of bingo. First, the proposed amendments would require bingo conductors to make available upon request the written procedure that addresses equipment malfunctions and improper calls or placements. Next, the proposed amendments clarify that bingo cards may never be reserved for a particular player. The proposed amendments would also permit bingo conductors to value bingo equipment awarded as bingo prizes at the price actually paid for the equipment, provided that the conductor maintains a receipt for the equipment. The proposed amendments would also allow a bingo conductor to designate more than one individual as the bingo operator. The proposed amendments would also require a conductor's bingo caller to announce prior to the start of a bingo game the pattern needed to win the game and the prize(s), unless the prize amount is based on sales or attendance, in which case the prize must be announced prior to

the end of the game. Finally, the proposed amendments clarify that a bingo occasion is considered to have occurred on the date on which the occasion began. This clarification is needed for those occasions that begin on one date but end on another date.

The proposed amendments to §402.203 remove obsolete references to a specific form and the payment of the gross rentals tax, which was abolished in the 84th Regular Legislative Session.

The proposed amendments to §402.205 clarify that a bingo bookkeeper may only be a business contact for a commercial lessor and a designated agent for an accounting unit if the bookkeeper is not an employee of the commercial lessor. This was the intent of the Commission when it originally adopted this rule in 2008 (33 TexReg 9223). The proposed amendments also clarify that when an organization joins an accounting unit and transfers bingo equipment and supplies to that unit, the written inventory of that equipment and supplies must include all pull-tab tickets. Finally, the proposed amendments remove from the rule a reference to "disbursement to charity" and replace it with "charitable purpose disbursement," which is the proper phrase used throughout Chapter 402.

The proposed amendments to §402.210 add a requirement that a bingo conductor's house rules be posted at the bingo premises in a location that is easily accessible to all patrons. This new requirement is designed to increase player awareness.

The proposed amendments to §402.300 affect pull-tab bingo games. First, the proposed amendments clarify that instant pull-tab tickets may be sold over multiple bingo occasions, and a winning instant ticket may only be claimed during the bingo occasion(s) where tickets from the winning ticket's deal are sold. Regarding event pull-tab tickets, the proposed amendments clarify that the event which determines the ticket winner(s) must occur during the same bingo occasion at which the first event pull-tab ticket from the deal was sold. Furthermore, a winning event pull-tab ticket may only be claimed during the bingo occasion at which the event occurred. However, the proposed amendments include exceptions that would permit licensed authorized organizations that are unit members, and organizations that conduct bingo on consecutive occasions within one 24-hour period, to hold an event and pay a winning ticket at certain other bingo occasions. The proposed amendments will still require certain information, including ticket price and game name, to be printed on a pull-tab ticket, but the amendments abolish the requirement that the information be printed on a specific side of the ticket. The proposed amendments also provide a consistent basis by which to determine the value of merchandise prizes. The proposed amendments also remove the absolute prohibition on pull-tab tickets displaying images of alcoholic beverages and weapons, but the amendments add a prohibition on the display of violent acts and offensive images or text. The proposed amendments will also allow the Commission to determine how many pull-tab tickets a manufacturer must submit for testing, which codifies current practice. The proposed amendments will also require manufacturers to include with a pull-tab ticket deal instructions on at least one permissible method to play the game. The proposed amendments also alter the distance required between numbers/symbols and the window perforations on a pull-tab ticket. Finally, the proposed amendments clarify the definitions of instant and event pull-tab tickets and will no longer require bingo conductors to include distributor information in their pull-tab ticket purchase log.

The proposed amendments to §402.301 remove the absolute prohibition on bingo cards and paper displaying images of alcoholic beverages and weapons, but the amendments add a prohibition on the display of offensive images or text. The proposed amendments also remove an obsolete citation to an old rule and replace it with the current citation.

The proposed amendments to §402.303 remove the requirement that when pull-tab bingo tickets are sold from a dispenser, the entire deal or package of pull-tab bingo tickets must be offered for sale. The intent of this amendment is to allow for more types of pull-tab bingo tickets to be stocked in a dispenser. The proposed amendments also delete an obsolete reference to the Problem Gamblers' Help Line of the Texas Council on Problem and Compulsive Gambling, which no longer exists. Finally, the proposed amendments also remove the requirement that manufacturers, distributors, and conductors maintain logs related to pull-tab bingo ticket dispensers.

The proposed amendments to §402.324 remove both the requirement that a manufacturer notify the Commission in writing before submitting a card-minding system to an independent testing facility for review and the requirement that the independent testing facility communicate with the manufacturer and/or Commission if any testing questions arise. While the proposed amendments remove the requirement that the independent testing facility communicate any testing questions to the Commission, we anticipate that such communications will still occur in some instances. The proposed amendments also require the Commission to notify both the manufacturer and the independent testing facility whether the Commission has approved or disapproved a specific card-minding system.

The proposed amendments to §402.325 will no longer require a player seeking a refund from a voided transaction to provide his or her address and telephone number. This change is proposed in the interest of privacy. The proposed amendments will also remove the prohibition on reserving card-minding devices for players.

The proposed amendments to §402.400 remove obsolete references to a specific schedule and replace it with the proper form name.

The proposed amendments to §402.404 remove obsolete language regarding bingo licenses issued before, and bingo worker registry applications submitted on or after, September 1, 2013. The proposed amendments also limit when a bingo worker registry renewal application may be submitted. Currently, the Commission will not accept renewal applications received more than 90 days before the current license expiration date. The proposed amendments lower that threshold to 60 days before the current license expiration date. This change brings the rule in line with the bingo operating service system requirements.

The proposed amendments to §402.407 delete the formula used to determine the bond amounts for unit managers. The new formula will be located in §402.603.

The proposed amendments to §402.411 limit when a license renewal application may be submitted. Currently, the Commission will not accept renewal applications received more than 90 days before the current license expiration date. The proposed amendments lower that threshold to 60 days before the current license expiration date. This change brings the rule in line with the bingo operating service system requirements.

The proposed amendments to §402.420 only alter the attached figure. The amendments remove obsolete references to form names and replace them with the proper names. The proposed amendments also correct a spelling error.

The proposed amendments to §402.424 would allow a license amendment request application to be submitted via electronic mail, telephone or facsimile.

The proposed amendments to §402.451 remove obsolete language and the attached figure regarding the disbursement of any bingo account balance in excess of the bingo conductor's or accounting unit's operating capital limit. The deleted language only covered such disbursements through September 30, 2012.

The proposed amendments to §402.500 clarify that any bingo licensee must provide to the Commission upon request any information required to be maintained by the Bingo Enabling Act or the Charitable Bingo Administrative Rules.

The proposed amendments to §402.504 will only require a bingo conductor to provide a debit card transaction sales receipt to the purchaser upon request. The proposed amendments will also clarify that bingo conductors must maintain either an electronic or hard copy of all debit card transaction sales receipts.

The proposed amendments to §402.506 clarify that the types of records listed in subsection (b) of the rule are only examples of the types of records that are acceptable to substantiate bingo expenses. Records not listed in subsection (b) may still be acceptable, provided that the records adequately document and substantiate such an expense, as determined by the Commission. The proposed amendments also remove the requirement that a bingo conductor's Cash Disbursements Journal include the conductor's or unit's name, taxpayer or unit number, and the calendar quarter.

The proposed amendments to §402.511 add a requirement that a bingo conductor's perpetual inventory of pull-tab bingo tickets contain the occasion date(s) that the pull-tab tickets were sold.

The proposed amendments to §402.514, which governs electronic fund transfers, would permit the bingo chairperson of a bingo conductor that is part of an accounting unit to designate another individual to review the accounting records and bank statements with the conductor's bookkeeper.

The proposed amendments to §402.600 remove obsolete references to the payment of gross rental taxes. The proposed amendments also clarify that all quarterly report supplements must be submitted to the Commission in accordance with the same requirements for the report itself. The proposed amendments would also require commercial lessors to include in their quarterly reports information regarding property taxes paid by the lessor and reimbursed by the lessee bingo conductor. Finally, the proposed amendments would require quarterly report monetary amount entries to be rounded to whole dollar amounts.

The proposed amendments to §402.602 will require the Commission to notify inactive accounts that a prize fee or rental tax is owed, and provide the accounts with existing documents that support the delinquency determination. Such notification may be provided to any officer, director, or business contact listed in the inactive account's most recent filing with the Commission.

The proposed amendments to §402.603 alter and clarify the bond and security requirements for bingo conductors, commercial lessors, manufacturers, accounting units, and unit managers. The bond requirement for commercial lessors to

secure payment of the gross rentals tax was abolished in the 84th Regular Legislative Session, therefore the proposed amendments remove all references to commercial lessors' bond requirements. The proposed amendments also clarify that bingo conductors must maintain a bond or other security until their license is relinquished or revoked, which is required under §2001.514 of the Occupations Code. The regular bond amount requirements for bingo conductors have not been changed, but if a conductor fully pays all prize fees and penalties, if any, for eight consecutive quarters, their bond amount will be reduced to \$100.00. The proposed amendments also alter the bond requirement for unit managers. Under the proposed amendments, a unit manager must submit a bond in the amount equal to the aggregate of the bond amounts for each of the unit's member organizations. The Commission anticipates that this change will result in lower unit manager bond amounts than those calculated under the previous formula, found in §402.407. Finally, the proposed amendments permit accounting units without a unit manager to submit one bond to cover each of the unit's member organizations.

The proposed amendments to §402.703, which governs Commission audits of licensees, will require that the audit fieldwork take place at the licensee's business office, bingo premises, bookkeeper's office, or accountant's office. The purpose of this proposed amendment is to have the audit fieldwork take place at the location where the licensee's business records are located; thereby not requiring licensees to transport their records (which are usually voluminous) to another location.

The proposed amendments to §402.706 implement §2001.358 of the Occupations Code, which requires the Commission to adopt a schedule of sanctions that defines and summarizes statutory and rule violations to ensure that sanctions imposed are appropriate to the violation. The schedule must include a list of the most common violations and the sanctions assessed for those violations, including license suspension and revocation. The Commission's previous schedule only addressed the imposition of administrative penalties. The proposed amendments add to the schedule those violations that could result in license suspension, revocation or denial, or bingo worker registry removal or denial.

The proposed amendments to §402.707 add language to the rule's Expedited Administrative Penalty Chart to incorporate §2001.420(b)(2) of the Occupations Code, which states that bingo games that award individual prizes of \$50 or less are not included in the \$2,500 prize limit for a single bingo occasion. The proposed amendments also remove an obsolete reference to the Problem Gamblers' Help Line of the Texas Council on Problem and Compulsive Gambling, which no longer exists. Finally, the proposed amendments allow for an informal dispute resolution conference to occur after a licensee or other person receives a Notice of Administrative Violation and Settlement Agreement.

The proposed amendments to §402.708 correct a spelling error and remove obsolete references to the Request for Informal Dispute Resolution Form, which does not exist. The proposed amendments also clarify that if a licensee does not attend a scheduled Dispute Resolution Conference, a formal hearing may occur. Finally, the proposed amendments will allow for an informal dispute resolution conference for disputes regarding a Notice of Administrative Violation and Settlement Agreement, an audit finding(s) contained within a final audit report, a determination letter or a notice of opportunity to show compliance letter.

Kathy Pyka, Controller, has determined that the proposed rule amendment to remove the remittance of the gross rental tax by licensed commercial lessors aligns the agency rule with statute. Ms. Pyka has also determined that for each year of the first five years that all the proposed amendments will be in effect, there will be no significant fiscal impact for the state as a result of the proposed amendments. There will be no adverse effect on small businesses, micro businesses, or local or state employment. There will be no additional economic cost to persons required to comply with the amendments as proposed. Furthermore, an Economic Impact Statement and Regulatory Flexibility Analysis is not required because the amendments will not have an economic effect on small businesses as defined in Government Code §2006.001(2).

Alfonso D. Royal, III, Director of the Charitable Bingo Operations Division, has determined that for each year of the first five years the proposed amended rules will be in effect, the anticipated public benefits are the more efficient and equitable regulation of charitable bingo, increased compliance with the Bingo Enabling Act and Commission rules, and a reduced regulatory burden on the bingo industry.

The Commission requests comments on the proposed amended rules from any interested person. Comments may be submitted to James Person, Assistant General Counsel, by mail at Texas Lottery Commission, P.O. Box 16630, Austin, Texas 78761-6630; by facsimile at (512) 344-5189; or by email at legal.input@lottery.state.tx.us. Comments must be received within 30 days after publication of this proposal in order to be considered. The Commission will hold a public hearing on this proposal at 10:00 a.m. on Wednesday, May 11, 2016, at 611 E. 6th Street, Austin, Texas 78701.

SUBCHAPTER A. ADMINISTRATION

16 TAC §402.103

The rule amendments are proposed under: (1) §2001.054 of the Occupations Code, which authorizes the Commission to adopt rules to enforce and administer the Bingo Enabling Act; and (2) §467.102 of the Government Code, which authorizes the Commission to adopt rules for the enforcement and administration of this chapter and the laws under the Commission's jurisdiction.

The proposed rule amendments implement Chapter 2001 of the Occupations Code.

§402.103. *Training Program.*

(a) - (e) (No change.)

(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 [and published in the *Bingo Bulletin*].

(2) - (7) (No change.)

(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.

Filed with the Office of the Secretary of State on April 18, 2016.

TRD-201601830

Bob Biard
General Counsel
Texas Lottery Commission
Earliest possible date of adoption: May 29, 2016
For further information, please call: (512) 344-5012



SUBCHAPTER B. CONDUCT OF BINGO

16 TAC §§402.200, 402.203, 402.205, 402.210

The rule amendments are proposed under: (1) §2001.054 of the Occupations Code, which authorizes the Commission to adopt rules to enforce and administer the Bingo Enabling Act; and (2) §467.102 of the Government Code, which authorizes the Commission to adopt rules for the enforcement and administration of this chapter and the laws under the Commission's jurisdiction.

The proposed rule amendments implement Chapter 2001 of the Occupations Code.

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

(a) (No change.)

(b) Inspection and use of equipment.

(1) - (5) (No change.)

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

(A) - (B) (No change.)

(c) - (d) (No change.)

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

(f) Merchandise prizes. Any merchandise or other non-cash prize, including bingo equipment, awarded as a bingo prize shall be valued at its current retail price. However, [with the exception of bingo equipment], a non-cash prize awarded as a bingo prize may be valued at the price actually paid for that prize provided that the licensed authorized organization maintains a receipt or other documentation evidencing the actual price paid. Prize fees must be collected on merchandise and non-cash prizes.

(g) (No change.)

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

(1) - (2) (No change.)

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

(A) (No change.)

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

(C) (No change.)

(4) - (5) (No change.)

(i) Reservation of bingo cards. No [Except where otherwise expressly permitted by this chapter, no] licensed authorized organization may reserve, or allow to be reserved, any bingo card or cards for use by a bingo player.

(j) (No change.)

(k) Caller requirements. The caller shall:

(1) - (3) (No change.)

(4) announce:

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

(B) - (D) (No change.)

(5) - (6) (No change.)

(l) - (n) (No change.)

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

§402.203. *Unit Accounting.*

(a) - (g) (No change.)

(h) Unit Recordkeeping.

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

(2) (No change.)

(3) A member of a unit which is also licensed as a commercial lessor must report its rental income on the unit quarterly report [and remit the taxes on rental income].

(4) (No change.)

(i) Unit Bingo Account.

(1) - (4) (No change.)

(5) All [taxes on rental income and all] prize fees must be paid from the unit bingo account.

(j) - (l) (No change.)

§402.205. *Unit Agreements.*

(a) - (e) (No change.)

(f) A unit may appoint a designated agent who must be a natural person.

(1) (No change.)

(2) A bookkeeper may be a business contact for a commercial lessor and a designated agent for an accounting unit provided that the bookkeeper is not an employee of [employed by] the commercial lessor.

(g) The original unit or trust agreement must contain the following information:

(1) - (6) (No change.)

(7) the method by which net proceeds and charitable purpose disbursements [to charity] will be apportioned among the members;

(8) - (10) (No change.)

(h) (No change.)

(i) A written inventory of bingo equipment and supplies must include the following:
Figure: 16 TAC §402.205(i)

(j) - (m) (No change.)

§402.210. *House Rules.*

(a) - (d) (No change.)

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

(f) (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 April 18, 2016.

TRD-201601831

Bob Biard

General Counsel

Texas Lottery Commission

Earliest possible date of adoption: May 29, 2016

For further information, please call: (512) 344-5012



SUBCHAPTER C. BINGO GAMES AND EQUIPMENT

16 TAC §§402.300, 402.301, 402.303, 402.324, 402.325

The rule amendments are proposed under: (1) §2001.054 of the Occupations Code, which authorizes the Commission to adopt rules to enforce and administer the Bingo Enabling Act; and (2) §467.102 of the Government Code, which authorizes the Commission to adopt rules for the enforcement and administration of this chapter and the laws under the Commission's jurisdiction.

The proposed rule amendments implement Chapter 2001 of the Occupations Code.

§402.300. *Pull-Tab Bingo.*

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

(1) - (2) (No change.)

(3) Face--The side [front] of a pull-tab bingo ticket, which displays the artwork of a specific game. [The front of the pull-tab bingo ticket includes, but is not limited to, the name of the game, the price of the game and the payout structure of the game.]

(4) - (5) (No change.)

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

(7) (No change.)

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

(9) - (11) (No change.)

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

(13) (No change.)

(14) Prize Amount--The value of cash and/or [the fair market value of] merchandise which is awarded as a prize, as valued under §402.200(f) of this chapter. A collectable item is considered merchandise for determining allowable prize amounts. [If a manufacturer or distributor supplies a merchandise prize, the manufacturer or distributor must determine the fair market value of the merchandise prize, otherwise the fair market value of a merchandise prize must be determined by the authorized organization.]

~~(15) Reverse~~--The back of a pull-tab bingo ticket that has a perforated break-open tab(s) that when opened reveals one or more numbers and/or symbols that appear under the tab(s).

(15) ~~[(16)]~~ 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.]

(16) ~~[(17)]~~ 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.

(17) ~~[(18)]~~ Symbol--A graphic representation of an object other than a numeric or alpha character.

(18) ~~[(19)]~~ 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.

(b) Approval of pull-tab bingo tickets.

(1) (No change.)

(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 [the face and reverse] 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) (No change.)

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

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

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

(F) display the serial number where it will be printed in a conspicuous location on [the face of] 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, [alcoholic beverages, weapons,] profane language, or provocative, explicit, offensive 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 [reverse side] along with a list of all other colors that will be printed with the game.

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

(5) If the color artwork is approved and the pull-tab bingo tickets [deal(s)] 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) (No change.)

(c) Disapproval of pull-tab bingo tickets.

(1) (No change.)

(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 [deal has] passed security testing by the Commission. At any time the manufacturer may withdraw any disapproved pull-tab bingo tickets from further consideration.

(3) (No change.)

(d) Manufacturing requirements.

(1) - (12) (No change.)

(13) Pull-tab bingo tickets must:

(A) - (C) (No change.)

(D) be designed so that the numbers and symbols are a minimum of [2.5/32 (5/64) inch from the dye-cut window perforations, except for a five window tab which may be] 2/32 (4/64) inch from the dye-cut window perforations;

(E) - (F) (No change.)

(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 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; [and]

(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.

(14) (No change.)

(15) 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 [All] winning instant pull-tab bingo ticket [tickets] must be presented for payment during the licensed authorized organization's bingo occasion(s) [licensed times] at which the instant pull-tab bingo ticket is available for sale. [Immediately upon payment a licensed authorized organization must punch a hole with a standard hole punch through or otherwise mark or deface each winning pull-tab bingo ticket of \$25.00 or more.]

(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. [a licensed authorized organization may sell or redeem pull-tab bingo tickets on the premises specified in its bingo license only:]

[(A) during the licensed authorized organization's licensed times; or]

[(B) during a required intermission between the bingo occasions of two licensed authorized organizations.]

(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 [until the deal is withdrawn under paragraph (6) of this subsection].

(4) For a licensed authorized organization that conducts bingo on consecutive occasions within one 24-hour period, the organization may sell or redeem event pull-tab tickets from a deal during either occasion [and during an intermission between the two bingo occasions].

(5) (No change.)

(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) - (10) (No change.)

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

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

(f) (No change.)

(g) Records.

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

~~[(A) the date of the purchase, the form number and corresponding serial number of the purchased pull-tab bingo tickets; and]~~

~~[(B) the name, address, and taxpayer number of the distributor from whom the pull-tab bingo tickets were purchased.]~~

(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 [daily] cash report. The aggregate total sales for the licensed authorized organization must be recorded on the cash register or point of sale station.

(3) - (5) (No change.)

(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) - (C) (No change.)

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

(E) - (F) (No change.)

(7) (No change.)

(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) - (5) (No change.)

(6) Event Ticket. A form of pull-tab bingo that utilizes [Pull-tab bingo tickets used as event tickets must contain more than two instant winners. Event ticket winner(s) are determined by] 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 [have] pre-determined winners and losers and has [have] immediate recognition of the winners and losers.

(8) Multiple Part Event or Multiple Part Instant Ticket. A pull-tab bingo [An event] 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) - (10) (No change.)

§402.301. *Bingo Card/Paper.*

(a) (No change.)

(b) Approval of bingo card/paper.

(1) - (2) (No change.)

(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 ~~[alcoholic beverages;] violent acts, [weapons;] profane language, or provocative, explicit, offensive or derogatory images or text, as determined by the Commission.~~ All images or text are subject to final approval by the Commission.

(4) - (6) (No change.)

(c) - (k) (No change.)

(l) Card-minding devices. This rule shall be applicable only to bingo card/paper made of paper, cardboard or similar material approved by the Commission and shall not be applicable to the manufacture or use of card-minding devices addressed in ~~§§402.321 - 402.328 of this chapter [§402.302],~~ with the exception of style of play as defined by this rule and approved by the Commission.

§402.303. *Pull-tab or Instant Bingo Dispensers.*

(a) (No change.)

(b) Manufacturing requirements.

(1) - (5) (No change.)

~~[(6) The toll-free "800" number operated by the Problem Gamblers' Help Line of the Texas Council on Problem and Compulsive Gambling must be displayed on each pull-tab or instant bingo dispenser in such a manner that it is conspicuous and clearly visible to a player using the device.]~~

(c) Conductor requirements.

(1) - (3) (No change.)

(4) ~~[The entire deal or package shall be offered for sale, except as otherwise provided by §402.300(d)(5) of this chapter.]~~ 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) (No change.)

(e) Records.

~~[(1) Each manufacturer selling pull-tab or instant bingo dispensers must maintain a log showing the date, model, and serial number of the purchased dispenser and to whom the dispenser was sold.]~~

~~[(2) Each distributor selling, leasing, or otherwise furnishing pull-tab or instant bingo dispensers must maintain a log showing the following information:]~~

~~[(A) the date, model and serial number of the dispenser;]~~

~~[(B) the name and Texas taxpayer identification number of the licensed organization to whom the pull-tab or instant bingo dispenser was furnished;]~~

~~[(C) name, address, and Texas taxpayer identification number of the manufacturer or distributor from whom the dispenser was purchased; and]~~

~~[(D)] name, address, and Texas taxpayer identification number of the distributor to whom the dispenser was sold, leased, or otherwise furnished.]~~

~~[(3)] Each conductor purchasing, leasing, or otherwise utilizing pull-tab or instant bingo dispensers must maintain a log showing the date, model, and serial number of the dispenser and the name, address, and Texas taxpayer identification number of the distributor from whom the dispenser was purchased, leased, or otherwise furnished. If multiple conductors hold an interest in a dispenser, each must maintain a separate record.]~~

~~(1) [(4)] 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) [(5)] 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) (No change.)~~

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

~~(a) (No change.)~~

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

~~[(1)] Manufacturer has card-minding system ready for submission, and informs the Commission in writing prior to the submission;]~~

~~(1) [(2)] Manufacturer submits system to lab with letter outlining the card-minding system to be tested for approval in Texas;~~

~~(2) [(3)] Lab performs validation testing to ensure compliance with the Commission's requirements. Testing may include functional testing and/or modification testing, if applicable;~~

~~[(4)] Lab communicates with manufacturer and/or Commission on any questions arising from testing;]~~

~~(3) [(5)] Lab creates certification report which includes file verification methodology, software/firmware signatures (checksum) and testing results;~~

~~(4) [(6)] Manufacturer submits approval request with certification report to the Commission;~~

~~(5) [(7)] Once the Commission has received the certification report from the independent testing facility, the Commission may request a demonstration of the product; and~~

~~(6) [(8)] The Commission shall either approve or disapprove the submission based on the test results and inform the manufac-~~

~~turer and lab of the results within thirty (30) calendar days of receipt of the test results.~~

~~(c) - (i) (No change.)~~

~~§402.325. Card-Minding Systems--Licensed Authorized Organization Requirements.~~

~~(a) - (c) (No change.)~~

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

~~(1) - (2) (No change.)~~

~~(3) The player must write his or her name, [address, telephone number,] signature, and amount of refund on the back of the void receipt before a partial or full refund may be issued; and~~

~~(4) (No change.)~~

~~(e) - (j) (No change.)~~

~~[(k)] Card-minding devices may not be reserved for players. Each player shall have an equal opportunity to use the available devices on a first come, first served basis.]~~

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

~~(m) [(n)] 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) [(o)] 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) [(p)] 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) [(q)] 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) [(r)] 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.

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, 402.404, 402.407, 402.411, 402.420, 402.424, 402.451

The rule amendments are proposed under: (1) §2001.054 of the Occupations Code, which authorizes the Commission to adopt rules to enforce and administer the Bingo Enabling Act; and (2) §467.102 of the Government Code, which authorizes the Commission to adopt rules for the enforcement and administration of this chapter and the laws under the Commission's jurisdiction.

The proposed rule amendments implement Chapter 2001 of the Occupations Code.

§402.400. General Licensing Provisions.

(a) - (l) (No change.)

(m) Representation; personal receipt of documents. For purposes of this subsection, an individual shall be recognized by the Commission as an applicant or licensee's authorized representative only if the applicant or licensee has filed with the Commission a form prescribed by the Commission identifying the individuals currently listed as directors, officers, or operators, or if they are identified on the completed [form "Schedule E] Authorization of Representation for Bingo Licenses form^[2]]. A person is not an authorized representative of the applicant or licensee unless specifically named on a form prescribed by the Commission as part of the application, or in the ["Schedule E] Authorization of Representation for Bingo Licenses form^[2] that is on file with the Commission. Only those persons specifically named on a form prescribed by the Commission or in the ["Schedule E] Authorization of Representation for Bingo Licenses form^[2] as an authorized representative shall be recognized by the Commission concerning any matter relating to the licensing process or license. Only the applicant or licensee or its authorized representative may receive from the Commission documents relating to the application or license without being required to submit a request under the Public Information Act.

(n) Eligibility determination pending identification of playing location, days, times, and starting date.

(1) (No change.)

(2) All other information requested on the application and the accompanying supplements [schedules] must be complete and in compliance with all other requirements of the Act and Rules before the Commission determines eligibility status.

(3) - (7) (No change.)

§402.404. License and Registry Fees.

(a) Definitions.

(1) - (2) (No change.)

(3) Regular License Fee Amount:

[(A) License to Conduct Bingo:]

f(i) The annual fee for a license to conduct bingo that becomes effective before September 1, 2013, shall be an amount equal to the minimum license fee amounts based on annual gross receipts specified in Texas Occupations Code, §2001.104(a).]

(A) [(ii)] The annual fee for a license to conduct bingo [that becomes effective on or after September 1, 2013,] shall be as follows:

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

(ii) [(HH)] Class B (annual gross receipts of more than \$25,000 but not more than \$50,000) - \$264;

(iii) [(HHH)] Class C (annual gross receipts of more than \$50,000 but not more than \$75,000) - \$396;

(iv) [(HIV)] Class D (annual gross receipts of more than \$75,000 but not more than \$100,000) - \$528;

(v) [(HV)] Class E (annual gross receipts of more than \$100,000 but not more than \$150,000) - \$792;

(vi) [(HV)] Class F (annual gross receipts of more than \$150,000 but not more than \$200,000) - \$1,188;

(vii) [(VII)] Class G (annual gross receipts of more than \$200,000 but not more than \$250,000) - \$1,584;

(viii) [(VIII)] Class H (annual gross receipts of more than \$250,000 but not more than \$300,000) - \$1,980;

(ix) [(IX)] Class I (annual gross receipts of more than \$300,000 but not more than \$400,000) - \$2,640;

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

[(B) Commercial Lessor License:]

f(i) The annual fee for a commercial lessor license that becomes effective before September 1, 2013, shall be an amount equal to the minimum license fee amounts based on annual gross rentals specified in Texas Occupations Code, §2001.158(a).]

(B) [(ii)] The annual fee for a commercial lessor license [that becomes effective on or after September 1, 2013] shall be as follows:

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

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

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

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

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

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

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

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

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

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

(C) - (D) (No change.)

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

(e) Two-Year License Fee Payments.

[(1)] An applicant for a license issued under the Bingo Enabling Act that is effective for two years must pay an amount equal to two times the amount of the annual license fee, as set in §402.404(a)(3).

[(2) Two-Year License to Conduct Bingo or to Lease Bingo Premises Issued Before September 1, 2013:]

[(A) To be timely received, the full license fee payment for the second year of a two year license must be postmarked no later than the first anniversary of the date the license became effective. A license fee payment bearing no legible postmark, postal meter date, or date of delivery to the common carrier may be considered to have been sent seven calendar days before receipt by the Agency, or on the date of the check, if the check date is less than seven days earlier than date of receipt. If the first anniversary of the date the license became effective falls on a Saturday, Sunday, or legal holiday, the payment will be due the next day which is not a Saturday, Sunday, or legal holiday.]

[(B) An organization that places its license on administrative hold during the first year of a two year license period and elected to pay the second year by the first anniversary of the license effective date may pay a Class A license fee, plus any amount due under subsection (d)(2) of this section, for the second year of the license period.]

[(C) If the first anniversary of the date a two-year license became effective falls on or after September 1, 2013, the fee amount due for the second year of that license will be the amount set in §402.404(a)(3)(A)(ii) or §402.404(a)(3)(B)(ii).]

(f) - (k) (No change.)

(l) Registry of Approved Bingo Workers.

(1) A fee of \$25 must accompany each Texas Application for Registry of Approved Bingo Workers, and each application to renew listing on the registry, submitted to the Commission [on or after September 1, 2013]. The Commission will not consider or act upon an application until the requisite fee is paid.

(2) Except as authorized by the Charitable Bingo Operations Director, or their designee, an application to renew listing on the

registry received by the Commission more than 60 [90] days prior to the expiration date of the current registry listing will be returned unprocessed by the Commission to the sender.

§402.407. *Unit Manager.*

(a) Notification.

(1) An individual shall not provide services as a unit manager to licensed authorized organizations that have formed a unit until the following occurs:

(A) - (B) (No change.)

(C) the individual posts a bond or security, for each unit, as [in the form] prescribed by §402.603 [§402.603(b)] of this chapter; and

(D) (No change.)

[(2) Bond. The required initial bond amount for a unit manager shall not exceed \$30,000.00 for each unit. The unit manager's required initial bond amount will be determined by identifying the license class of each member of the unit and adding the corresponding dollar amounts for each member as follows:]

[(A) Classes A - D \$1000]

[(B) Classes E - H \$3000]

[(C) Classes I - J \$6000]

[(2) [(3)] A unit manager shall provide written notification to the Commission of any change in the information in the unit manager's most recent application for a unit manager license or renewal. The unit manager shall notify the Commission of the change in the information not later than the 15th day after the date of the change.

(b) (No change.)

§402.411. *License Renewal.*

(a) - (l) (No change.)

(m) Except as authorized by the Charitable Bingo Operations Director, or their designee, license renewal applications received by the Commission more than 60 [90] days prior to the current license expiration date will be returned unprocessed by the Commission to the sender.

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

Figure: 16 TAC §402.420

§402.424. *Amendment of a License by Electronic Mail, Telephone or Facsimile.*

(a) [Definitions.] The term "effective date," [following words and terms.] when used in this section, shall mean the [have the following meanings, unless the context clearly indicates otherwise:]

[(1) Personal identification number (PIN).--A five digit number uniquely assigned by the Commission to each licensed authorized organization for the purpose of validating a caller's authority to make changes by telephone to the day(s) or time(s) bingo is conducted by the organization.]

[(2)] [Effective date--The] first day that the changes to the day(s) or time(s) bingo is conducted by the organization are to begin.

(b) A licensed authorized organization may change the day(s) or time(s) it conducts bingo by electronic mail, telephone or facsimile

provided the organization has sufficient amendment license fee credit. The request should be received no later than noon the business day before the requested effective date of the amended license.

(1) To change by telephone the day(s) or time(s) the organization conducts bingo, an authorized [a] requestor must speak directly to a License and Permit Specialist in the Licensing Services Department of the Charitable Bingo Operations Division, who will verify the caller's authority to request an amendment. [an examiner in the licensing section of the Charitable Bingo Operations Division and supply the organization's P.I.N.]

[(A) Control of a P.I.N. is the responsibility of the organization. An organization is responsible for all bingo activities conducted under an approved license change when a valid P.I.N. is provided.]

[(B) To change an organization's P.I.N., the Commission must receive a written request from the organization's chief executive officer.]

(2) To change by [via] facsimile [request] the day(s) or time(s) the organization conducts bingo, the Commission must receive a complete [completed] application at the facsimile number provided on the prescribed application form.

(3) To change by electronic mail the day(s) or time(s) the organization conducts bingo, the Commission must receive a complete application at the bingo service electronic mail address provided on the prescribed application form.

§402.451. *Operating Capital.*

(a) - (g) (No change.)

[(h) The bingo account balance as of October 1, 2009, in excess of a licensed authorized organization's or unit's retained operating capital limit as of January 1, 2010, must be disbursed within the following time frame:]

[Figure: 16 TAC §402.451(h)]

(h) [(h)] Recalculation of Operating Capital.

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

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

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

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

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

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

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

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

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SUBCHAPTER E. BOOKS AND RECORDS

16 TAC §§402.500, 402.504, 402.506, 402.511, 402.514

The rule amendments are proposed under: (1) §2001.054 of the Occupations Code, which authorizes the Commission to adopt rules to enforce and administer the Bingo Enabling Act; and (2) §467.102 of the Government Code, which authorizes the Commission to adopt rules for the enforcement and administration of this chapter and the laws under the Commission's jurisdiction.

The proposed rule amendments implement Chapter 2001 of the Occupations Code.

§402.500. *General Records Requirements.*

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

(c) Upon request of the Commission, a licensee shall provide [make available] 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.

§402.504. *Debit Card Transactions.*

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

(c) Records.

(1) Upon request, a [A] debit card transaction sales receipt must be provided to the purchaser that uses a debit card to buy or use bingo paper/cards, electronic bingo devices or pull tabs. An electronic or hard [A] copy of the debit card transaction sales receipt must be kept by the licensed authorized organization or Unit in order to substantiate compliance with the Bingo Enabling Act and the Charitable Bingo Administrative Rules.

(2) - (4) (No change.)

§402.506. *Disbursement Records Requirements.*

(a) (No change.)

(b) Examples of [The] records that [listed below] are acceptable to substantiate bingo expenses for each type of expense are:

(1) (No change.)

(2) Written lease agreement[; if any;] between the commercial lessor and the licensed authorized organization or unit stating the amount of rent charged for the use of bingo premises. If there is no written agreement, the organization must support the rental payments with an invoice from the lessor stating location, rental dates, and rental amounts by occasion.

(3) - (10) (No change.)

(c) - (d) (No change.)

(e) All expenses from the bingo checking account must be listed on a Cash Disbursements Journal on forms provided by the Commission or in another format that shows the information for each check

written, electronic fund transfers, bank fees, and cash shortages or overages. If any licensed authorized organized organization maintains its records on a commercially available accounting software package (e.g. Quicken), use of the standard accounting features of the package shall meet the requirements of this section.

(1) (No change.)

(2) Cash Disbursement Journal Required Information:

~~[(A) organization or unit name;]~~

~~[(B) taxpayer or unit number;]~~

~~[(C) calendar quarter;]~~

~~[(A) [(D)] date of check, withdrawal or electronic funds transfer transaction;~~

~~[(B) [(E)] check number, transaction number or confirmation number;~~

~~[(C) [(F)] name of payee;~~

~~[(D) [(G)] amount of expense;~~

~~[(E) [(H)] expense category--each expense item shall correspond to the category on the Texas Bingo Quarterly Report; and~~

~~[(F) [(H)] totals--Each expense category shall be totaled quarterly and match the information reported to the Commission on the Texas Bingo Quarterly Report. Any changes made on the Texas Bingo Quarterly Report shall be documented on the Cash Disbursements Journal.~~

(f) - (g) (No change.)

§402.511. *Required Inventory Records.*

(a) - (d) (No change.)

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

(1) - (5) (No change.)

(6) number of tickets sold, missing, or damaged by occasion date; ~~and]~~

(7) number of pull-tab tickets remaining if the deal is closed; ~~and[-]~~

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

§402.514. *Electronic Fund Transfers.*

(a) (No change.)

(b) Controls Over Electronic Fund Transfers.

(1) Licensed authorized organizations or units shall use for all EFT transactions the same financial policies, procedures, and controls that govern disbursement by check and the receipt of funds into the bingo bank account. (See §2001.452 of the Bingo Enabling Act and §402.505 of this chapter (relating to Permissible Expense) and §402.506 of this chapter (relating to Disbursement Records Requirements).)]

(2) The licensed authorized organization or unit shall implement the following controls for EFT transactions.

(A) (No change.)

(B) The licensed authorized organization or unit shall maintain documentation of [board] approval of changes in the person(s) authorized to execute electronic funds transfers. Documentation may include but is not limited to: meeting minutes, bank account signature cards, or copies of applications to the financial institution to authorize

individuals access to perform on-line banking in association with the bingo bank account or unit bank account.

(3) The bingo chairperson, or in the case of an accounting unit, the individual authorized in writing by each unit member's bingo chairperson, and bookkeeper shall review accounting records and bank statements to ensure that only authorized EFTs are executed. Each EFT shall be accounted for when completing monthly bank reconciliations.

(c) - (d) (No change.)

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SUBCHAPTER F. PAYMENT OF TAXES, PRIZE FEES AND BONDS

16 TAC §§402.600, 402.602, 402.603

The rule amendments are proposed under: (1) §2001.054 of the Occupations Code, which authorizes the Commission to adopt rules to enforce and administer the Bingo Enabling Act; and (2) §467.102 of the Government Code, which authorizes the Commission to adopt rules for the enforcement and administration of this chapter and the laws under the Commission's jurisdiction.

The proposed rule amendments implement Chapter 2001 of the Occupations Code.

§402.600. *Bingo Reports and Payments.*

(a) (No change.)

(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 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) Signature provisions.

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

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

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

(1) An authorized organization holding an annual license, temporary license, or a temporary authorization to conduct bingo must file on a form prescribed by the Commission or in an electronic format

prescribed by the Commission a quarterly report for financial and statistical information relating to the conduct of bingo games. The report and supplements must be filed with the Commission on or before the 25th day of the month following the end of the calendar quarter even if there were no games conducted during that quarter. Failure to file a required report or supplement by the due date may result in an administrative penalty.

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

(3) (No change.)

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

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

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

~~{(3) The Commission may deny a renewal application or revoke a license of a commercial lessor holding a license to lease bingo premises license if the licensee remits to the Commission two insufficient checks for rental tax within four quarters.}~~

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

(1) (No change.)

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

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

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

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

(g) (No change.)

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

(i) - (j) (No change.)

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

(l) Extensions.

(1) Filing extension because of natural disaster.

(A) The Director will grant to a licensee who has been identified as a victim of a natural disaster an extension of not more than 90 days to file a quarterly report and supplements or pay [rental tax or] prize fees provided the licensee has filed a timely request for an extension. In determining the natural disaster victims, the Commission shall recognize the counties that have been identified by the Office of the Governor or the Comptroller of Public Accounts.

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

(C) If an extension under this paragraph is granted, interest on the unpaid [rental tax or] prize fee does not begin to accrue until the day after the day on which the extension expires, and [rental tax,] prize fees_; and penalties are assessed and determined as though the last day of the extension were the original due date.

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

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

(B) (No change.)

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

(3) (No change.)

(m) Rounding. Quarterly report entries must be rounded to whole dollar amounts. 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.

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

(a) (No change.)

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

sion. Failure to produce documents supporting the delinquency determination does not limit the Division's ability to collect the debt.

(c) (No change.)

§402.603. Bond or Other Security.

(a) Bond or Other Security Required.

(1) An applicant for a regular license to conduct charitable bingo must submit security consistent with the provisions of this section. A licensed authorized organization must maintain the security until the organization ceases to conduct bingo and the license is relinquished or revoked.

(A) Except as otherwise provided in this section, the security amount for a regular license to conduct charitable bingo is based on the license class. The security amount is:

- (i) Class A - \$125.00.
- (ii) Class B - \$325.00.
- (iii) Class C - \$600.00.
- (iv) Class D - \$825.00.
- (v) Class E - \$1,225.00.
- (vi) Class F - \$1,800.00.
- (vii) Class G - \$2,125.00.
- (viii) Class H - \$2,675.00.
- (ix) Class I - \$3,275.00.
- (x) Class J - \$7,000.00.

(B) If at any time a licensed authorized organization fails to fully pay its requisite prize fees by the due date and a jeopardy determination becomes final, then the organization's security amount may be calculated at three times its highest quarterly prize fee for the four most recent quarters or for the highest quarter filed if less than four.

(C) If a licensed authorized organization has fully paid all prize fees and associated penalties, if any, prior to a final jeopardy determination for eight (8) consecutive quarters, the amount of the requisite security will be reduced to \$100.00. If at any time an organization paying the reduced security amount fails to fully pay its requisite prize fees and any associated penalties and interest by the due date and a jeopardy determination becomes final, then the Commission may calculate the organization's security amount in accordance with §402.603(a)(1)(A) or (B) of this chapter.

(2) An applicant for a manufacturer's license must submit a cash bond or bond in the amount of \$10,000 issued by a surety company chartered or authorized to do business in this state. A licensed manufacturer must maintain the bond until the license is relinquished or revoked.

(3) An applicant for a unit manager license must submit security consistent with the provisions of this section. A licensed unit manager must maintain the security until the license is relinquished or revoked.

(A) Except as otherwise provided in this section, the unit manager's security amount shall be the aggregate of each unit member organization's security amount, as set in §402.603(a)(1) of this chapter.

(B) If at any time a unit manager fails to fully pay the unit's requisite prize fees by the due date and a jeopardy determination becomes final, the security amount may be calculated at three times

the unit's highest quarterly prize fee liability for the four most recent quarters or for the highest quarter filed if less than four. If the unit manager changes, the new unit manager must file security.

(C) Members of an accounting unit with a licensed unit manager are not required to submit security until the member withdraws or is removed from the unit.

(4) Accounting Units.

(A) An accounting unit may submit and maintain one bond or other security to cover each of the unit's member organizations. Except as otherwise provided in this section, the amount of the security shall be the aggregate of each unit member organization's security amount, as set in §402.603(a)(1) of this chapter. If a unit member organization subsequently withdraws or is removed from the unit, that organization is responsible for obtaining and maintaining the requisite security.

(B) If at any time an accounting unit fails to fully pay its requisite prize fees by the due date and a jeopardy determination becomes final, the unit's security amount may be calculated at three times the unit's highest quarterly prize fee liability for the four most recent quarters or for the highest quarter filed if less than four. The financial obligation for such security shall be divided equally among the organizations that were in the unit at the time of the prize fee delinquency. If a unit member organization withdraws or is removed from such a unit, that organization's security amount shall be equivalent to its share of the unit's security amount, and the unit's security amount may be reduced by an amount equivalent to the exiting organization's share. If another organization subsequently joins such a unit, the unit's security amount will increase by the amount of the newly-joined organization's security amount.

(b) Types of bonds or other security. The Commission will accept only the following types of bonds or other security as security for the payment of prize fees:

(1) Cash or check made payable to the state comptroller. Cash security will not earn interest for the licensee.

(2) Irrevocable assignments of accounts, including certificates of deposit or certificates of savings, in banks, savings and loan institutions, and credit unions, whose deposits are insured by an agency of the United States government. This security must be executed on an assignment form approved by the Commission.

(3) Letters of credit from financial institutions.

(4) United States Treasury bonds, readily convertible to cash.

(5) Surety bonds executed on a form approved by the Commission and issued only by a surety company chartered or authorized to do business in the State of Texas. The appointing instrument must be properly notarized and physically attached to the bond.

(c) Forfeiture.

(1) If a licensed authorized organization, accounting unit, or unit manager pays less than the total amount of prize fee due, the Commission shall notify the licensed authorized organization, accounting unit, or unit manager of the delinquency via the "Texas Notice of Fee Due and Jeopardy Determination" for the quarter in which the liability exists.

(2) If the licensed authorized organization, accounting unit, or unit manager does not make the required payment by the date stated in the notice provided under subsection (c)(1), the Commission will demand the bond or other security or any part of the bond or other

security from the holder of the bond or other security necessary to pay the amount of prize fee due.

(3) The Commission will notify the licensed authorized organization, accounting unit, or unit manager and demand that a new or additional bond or other security for the specified amount be furnished within 20 days of the date of such notice. Failure to comply with the requirements of the notice within the 20 day period will result in the denial of an application for renewal or revocation of the license.

(d) Release of Bond or Other Security. The Commission will release a bond or other security upon the relinquishment or revocation of the license for which the security was furnished, provided that the Commission determines that no prize fee, penalty, or interest remains due and payable. The Commission will notify the former licensee in writing that the security has been released. If an accounting unit maintains one bond or other security for its member organizations, and one or more of the unit member's licenses are relinquished or revoked, then the Commission will notify the accounting unit in writing that its security amount may be reduced to an amount sufficient to cover only current unit members.

((1) An applicant for an original regular license to conduct charitable bingo or an original commercial license to lease bingo premises that has not been licensed previously must submit a bond or other security consistent with the provisions of this section.])

((2) An applicant for an original license that has been licensed previously to conduct charitable bingo or lease bingo premises must submit a bond or other security in accordance with the provisions in paragraph (b)(4) of this section if the applicant was delinquent in the payment of prize fees at any time during the last two years of its previous license period.])

((3) If the Commission determines that a licensed authorized organization, unit trustee organization, unit manager, or a licensed commercial lessor is delinquent in the payment of prize fees or rental taxes owed, the licensed authorized organization, unit trustee organization, unit manager, or licensed commercial lessor must submit a bond or other security consistent with the provisions of this section.])

((4) For the purposes of paragraph (1) of this subsection, a licensed authorized organization, unit trustee organization, unit manager, or commercial lessor is delinquent in the payment of prize fees or rental taxes imposed if the licensed authorized organization, unit trustee organization, unit manager, or commercial lessor fails to pay the prize fees or rental taxes by the due date and a jeopardy determination becomes final in accordance with Tex. Occ. Code §§2001.510 or 2001.511.])

((5) A licensed authorized organization, unit trustee organization, unit manager, or commercial lessor is required to file a bond or other security with the commission at the time a jeopardy determination becomes final. An organization that joins a unit in which the licensed authorized organizations are required to file a bond or other security must also provide to the Commission a bond or other security.])

((b) Bond or Other Security Amount. The amount of bond or other security required for an original regular license to conduct charitable bingo or an original commercial license to lease bingo premises is based on the applicant's license class as determined by the Commission through the licensing process.])

((1) For an original regular license to conduct charitable bingo, the bond or other security amount required per license class is:])

[(A) Class A - \$125.00.]

[(B) Class B - \$325.00.]

[(C) Class C - \$600.00.]

[(D) Class D - \$825.00.]

[(E) Class E - \$1,225.00.]

[(F) Class F - \$1,800.00.]

[(G) Class G - \$2,125.00.]

[(H) Class H - \$2,675.00.]

[(I) Class I - \$3,275.00.]

[(J) Class J - \$7,000.00.]

((2) For an original commercial license to lease bingo premises, the bond or other security amount required per license class is:])

[(A) Class A - \$50.00.]

[(B) Class B - \$125.00.]

[(C) Class C - \$175.00.]

[(D) Class D - \$250.00.]

[(E) Class E - \$325.00.]

[(F) Class F - \$400.00.]

[(G) Class G - \$475.00.]

[(H) Class H - \$550.00.]

[(I) Class I - \$625.00.]

[(J) Class J - \$1,825.00.]

((3) For a licensed authorized organization that is not delinquent in the payment of prize fees or rental taxes owed, is otherwise required to post a bond or other security, and joins a unit where the members of the unit are not required to post a bond, the amount of the bond or other security for the organization joining the unit shall be zero.])

((4) For a licensed authorized organization or a commercial lessor that has a final jeopardy determination before a bond has been released, the bond or other security will be calculated at three times its highest quarterly prize fee or rental tax liability for the four most recent quarters or for the highest quarter filed if less than four.])

((5) For a licensed authorized organization not in a unit or a commercial lessor that has a final jeopardy determination after a bond has been released, the bond or other security amount will be calculated at three times the licensed authorized organization's or commercial lessor's highest quarterly prize fee or rental tax liability for the four most recent quarters or for the highest quarter filed if less than four.])

((6) For a licensed authorized organization in a unit with a designated agent that has a final jeopardy determination, the bond or other security will be calculated at three times the unit's highest quarterly prize fee liability for the four most recent quarters or for the highest quarter filed if less than four. The financial obligation for such security shall be divided equally among the number of organizations in the unit.])

((7) For a unit trustee organization or unit manager that has a final jeopardy determination, the bond or other security amount will be calculated at three times the unit's highest quarterly prize fee liability for the four most recent quarters or for the highest quarter filed if less than four. If the unit trustee organization or unit manager changes, the new unit trustee organization or unit manager must file a bond or other security.])

[(e) Types of bonds or other security. The Commission will accept only the following types of bonds or other security as security for the payment of prize fees or rental taxes:]

[(1) Cash or check made payable to the state comptroller. Cash security will not earn interest for the licensee.]

[(2) Irrevocable assignments of accounts, including certificates of deposit or certificates of savings, in banks, savings and loan institutions, and credit unions, whose deposits are insured by an agency of the United States government. This security must be executed on an assignment form approved by the Commission.]

[(3) Letters of credit from financial institutions.]

[(4) United States Treasury bonds, readily convertible to cash.]

[(5) Surety bonds executed on a form approved by the Commission and issued only by a surety company chartered or authorized to do business in the State of Texas. The appointing instrument must be properly notarized and physically attached to the bond.]

[(d) Forfeiture.]

[(1) If a licensed authorized organization, unit trustee organization, unit manager, or commercial lessor pays less than the total amount of prize fee or rental tax due, the Commission shall notify the licensed authorized organization, unit trustee organization, unit manager, or commercial lessor of the delinquency via the "Texas Notice of Tax/ Fee Due and Jeopardy Determination" for the quarter in which the liability exists.]

[(2) If the licensed authorized organization, unit trustee organization, unit manager, or commercial lessor does not make the required payment by the date stated in the notice provided under subsection (e)(1), the Commission will demand the bond or other security or any part of the bond or other security from the holder of the bond or other security necessary to pay the amount of prize fee or rental tax liability due.]

[(3) The Commission will notify the licensed authorized organization, unit trustee organization, unit manager, or commercial lessor and demand that a new or additional bond or other security for the specified amount be furnished within 20 days of the date of such notice. Failure to comply with the requirements of the notice within the 20 day period will result in the denial of an application for renewal or revocation of the license.]

[(e) Release of Bond or Other Security.]

[(1) When a bond or other security is required in accordance with subsection (a)(1), the bond or other security will not be released until the licensed authorized organization, unit trustee organization, unit manager, or commercial lessor has timely paid all prize fees or rental taxes for two consecutive years.]

[(2) When a bond or other security is required in accordance with subsection (a)(2), the bond or other security will not be released until the licensed authorized organization, unit trustee organization, unit manager, or commercial lessor has timely paid all prize fees or rental taxes for eight consecutive quarters.]

[(3) When the licensed authorized organization, unit trustee organization, unit manager, or commercial lessor ceases to conduct bingo, serve as unit trustee organization or unit manager, or lease bingo premises, or if the license is denied or revoked by the Commission for any reason, the Commission will release a bond or other security if the Commission determines that no amount of prize fee, rental tax, penalty, or interest remains due and payable.]

[(4) The Commission will notify the licensee, unit trustee organization, unit manager, or commercial lessor in writing that a bond or other security has been released.]

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SUBCHAPTER G. COMPLIANCE AND ENFORCEMENT

16 TAC §§402.703, 402.706 - 402.708

The rule amendments are proposed under: (1) §2001.054 of the Occupations Code, which authorizes the Commission to adopt rules to enforce and administer the Bingo Enabling Act; and (2) §467.102 of the Government Code, which authorizes the Commission to adopt rules for the enforcement and administration of this chapter and the laws under the Commission's jurisdiction.

The proposed rule amendments implement Chapter 2001 of the Occupations Code.

§402.703. *Audit Policy.*

(a) - (d) (No change.)

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

(f) - (g) (No change.)

§402.706. *Schedule of Sanctions. [Standard Administrative Penalty Guideline.]*

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

(b) The Commission, through the Director of the Charitable Bingo Operations Division or their [his] 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 [Standard Administrative Penalty Chart] incorporated into this section.

Figure: 16 TAC §402.706(c)

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

(1) - (5) (No change.)

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

(e) (No change.)

(f) Additional remedies may be imposed along with or in lieu of sanctions, [an administrative penalty] which may include: a red-posit of funds to the bingo account; a removal of funds from the bingo account; or a disbursement of net proceeds in order to comply with the [minimum 35%] charitable distribution requirement[; suspension, revocation or denial of a license; or denial or removal from the registry of approved workers].

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

(h) The list of [statutory] violations in the Schedule of Sanctions [Standard Administrative Penalty Chart] is not an exclusive list of violations of the Bingo Enabling Act or the Charitable Bingo Administrative Rules.

(i) If a person is charged with a repeat violation within 36 months (3 years) of a previous [the first] violation, then the sanction [penalty] for a repeat violation will be imposed according to the Schedule of Sanctions [Standard Administrative Penalty Chart] for repeat violations.

(j) The sanction(s) imposed [amount of a penalty or the degree to which a remedy is applied] will be determined by considering the following factors, as applicable:

(1) - (2) (No change.)

(3) the action(s) [amount] necessary to deter future violations;

(4) - (5) (No change.)

(k) (No change.)

(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 Guideline.

(a) (No change.)

(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 [his] 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 [his] 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) - (7) (No change.)

(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) (No change.)

(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) (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)

§402.708. Dispute Resolution.

(a) What are the definitions for the terms used in this rule?

(1) - (2) (No change.)

(3) Dispute resolution conference--An informal meeting to resolve a disputed issue(s) related to a Notice of Administrative Violation and Settlement Agreement (NAVSA), an audit finding(s) contained within a final audit report, a determination letter or a [disputed issue(s) contained within a] notice of opportunity to show compliance letter.

(4) (No change.)

(b) Who may request a dispute resolution conference? A licensee that does not agree with the findings in its NAVSA, final audit report, determination letter or the information in a notice of opportunity to show compliance letter may request a dispute resolution conference.

(c) How do I request a dispute resolution conference?

(1) You may request a dispute resolution conference by completing and submitting a Request for Informal Dispute Resolution [Form] to the Director.

(2) Disputed issues must be identified on the request [form].

(3) The request [form] must be signed by:
Figure: 16 TAC §402.708(c)(3)

(4) A request for a dispute resolution conference related to a NAVSA must be submitted in accordance with §402.707(e). All other requests for a dispute resolution conference must be submitted [You must submit the completed Request for Informal Dispute Resolution Form] no later than 15 working days from the latest date of receipt of a determination letter, the final audit report, or notice of opportunity to show compliance letter.

(5) (No change.)

(d) Under what circumstances will the Director deny a request for a dispute resolution conference? The Director will not grant a request for a dispute resolution conference if:

(1) You are not a licensee that disputes the findings in the NAVSA, final audit report, determination letter or the information in a notice of opportunity to show compliance letter;

(2) You fail to timely submit the completed Request for Informal Dispute Resolution [Form] as required in subsection (c)(4) of this section or §402.707(e) of this chapter; or

(3) (No change.)

(e) When and where will the Dispute Resolution Conference be held?

(1) Charitable Bingo Operations Division staff will contact you within 15 calendar days from the date we receive a Request for Informal Dispute Resolution [Form], in order to schedule a mutually agreeable date, time, and location for the dispute resolution conference. However, for conferences related to a NAVSA, the Division will contact the respondent in sufficient time to schedule the conference within 20 days of the respondent's receipt of the NAVSA, as required under §402.707(e).

(2) (No change.)

(3) You must contact the Commission at least 24 hours prior to the scheduled conference time to reschedule a dispute resolution conference. However, in the event of unforeseen [unforeseen] events, upon agreement of the parties, a dispute resolution conference may be rescheduled.

(f) What happens if I don't attend or reschedule a Dispute Resolution Conference? The dispute resolution process will end. The administrative process will continue and a formal hearing may [will] proceed. We will notify you of the date of the administrative hearing.

(g) - (l) (No change.)

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on April 18, 2016.

TRD-201601836

Bob Biard
General Counsel
Texas Lottery Commission
Earliest possible date of adoption: May 29, 2016
For further information, please call: (512) 344-5012

SUBCHAPTER D. LICENSING REQUIREMENTS

16 TAC §402.413

The Texas Lottery Commission (Commission) proposes new rule 16 TAC §402.413 (Military Service Members, Military Veterans, and Military Spouses). The purpose of the proposed new rule is to implement Occupations Code Chapter 55, which requires state agencies that issue occupational licenses to adopt rules and policies pertaining to the licensing of active duty military personnel, their spouses, and military veterans. Among other things, Chapter 55 requires agencies to: (1) exempt active duty military personnel from late license renewal fees/penalties under certain circumstances; (2) quickly process applications and issue licenses for active duty military personnel, their spouses, and military veterans; and (3) waive license fees for active duty military personnel, their spouses, and military veterans in certain circumstances. Proposed new rule §402.413 is intended to satisfy the Commission's obligations under Chapter 55.

Kathy Pyka, Controller, has determined that, while the proposed rule will result in a loss of revenue to the state, the amount cannot be quantified. There will be no adverse effect on small businesses, micro businesses, or local or state employment. There will be no additional economic cost to persons required to comply with the rule as proposed. Furthermore, an Economic Impact Statement and Regulatory Flexibility Analysis is not required because the proposed rule will not have an economic effect on small businesses as defined in Government Code §2006.001(2).

Alfonso D. Royal, III, Director of the Charitable Bingo Operations Division, has determined that for each year of the first five years the proposed new rule will be in effect, the anticipated public benefits are compliance with statutory provisions and recognition of active duty military service members, their spouses, and military veterans for the services they have provided to the United States and the State of Texas.

The Commission requests comments on the proposed new rule from any interested person. Comments on the proposed new rule may be submitted to James Person, Assistant General Counsel, by mail at Texas Lottery Commission, P.O. Box 16630, Austin, Texas 78761-6630; by facsimile at (512) 344-5189; or by email at legal.input@lottery.state.tx.us. Comments must be received within 30 days after publication of this proposal in order to be considered. The Commission will hold a public hearing on this proposal at 10:00 a.m. on Wednesday, May 11, 2016, at 611 E. 6th Street, Austin, Texas 78701.

The new rule is proposed under: (1) Chapter 55 of the Occupations Code (specifically §§55.002, 55.004, 55.007, and 55.008), which requires state agencies to adopt rules related to the issuance of licenses to active duty military personnel, their spouses, and military veterans; (2) §2001.054 of the Occupations Code, which authorizes the Commission to adopt rules to enforce and administer the Bingo Enabling Act; and (3) §467.102 of the Government Code, which authorizes the Com-

mission to adopt rules for the enforcement and administration of this chapter and the laws under the Commission's jurisdiction.

The proposed new rule implements Chapters 55 and 2001 of the Occupations Code.

§402.413. Military Service Members, Military Veterans, and Military Spouses.

(a) The following terms used in this section are defined in §55.001 of the Occupations Code as follows:

(1) "Active duty" means current full-time military service in the armed forces of the United States or active duty military service as a member of the Texas military forces, as defined by §437.001, Government Code, or similar military service of another state.

(2) "Armed forces of the United States" means the army, navy, air force, coast guard, or marine corps of the United States or a reserve unit of one of those branches of the armed forces.

(3) "Military service member" means a person who is on active duty.

(4) "Military spouse" means a person who is married to a military service member.

(5) "Military veteran" means a person who has served on active duty and who was discharged or released from active duty.

(b) As soon as practicable after a military service member, military veteran, or military spouse applies in his or her individual capacity for a commercial lessor license, distributor license, manufacturer license, unit manager license, or listing on the bingo worker registry, the Commission will process the application and, if warranted, issue the license or list the applicant on the bingo worker registry. A military service member or military veteran must provide the Commission with definitive proof of his or her current or prior military service. A military spouse must provide the Commission with:

(1) definitive proof of his or her spouse's current military service; and

(2) his or her official marriage certificate or other definitive proof of his or her marriage to a military service member.

(c) The Commission will waive the license or bingo worker registry fee for a military service member or military veteran that applies in his or her individual capacity for a commercial lessor license, distributor license, manufacturer license, unit manager license, or listing on the bingo worker registry. The applicant must provide the Commission with definitive proof of the applicant's current or prior military service.

(d) The Commission will waive the license or bingo worker registry fee for a military spouse that applies in his or her individual capacity for a commercial lessor license, distributor license, manufacturer license, unit manager license, or listing on the bingo worker registry, provided that the applicant holds a current license issued by another state or jurisdiction that is substantially equivalent to the license or bingo worker registry for which the applicant is applying. The applicant must provide the Commission with:

(1) definitive proof of his or her spouse's current military service;

(2) his or her official marriage certificate or other definitive proof of his or her marriage to a military service member; and

(3) a photocopy of his or her current out-of-state license that is substantially equivalent to the license or bingo worker registry for which the applicant is applying.

(e) An individual licensed in his or her individual capacity as a commercial lessor, distributor, manufacturer, or unit manager is exempt from the late license renewal fee provided for in §402.411(c) of this chapter if the individual can demonstrate, to the satisfaction of the Commission, that the individual failed to renew his or her license in a timely manner because the individual was serving as a military service member.

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 April 18, 2016.

TRD-201601837

Bob Biard

General Counsel

Texas Lottery Commission

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For further information, please call: (512) 344-5012

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TITLE 19. EDUCATION

PART 2. TEXAS EDUCATION AGENCY

CHAPTER 97. PLANNING AND

ACCOUNTABILITY

SUBCHAPTER EE. ACCREDITATION

STATUS, STANDARDS, AND SANCTIONS

The Texas Education Agency (TEA) proposes amendments to §§97.1051, 97.1055, 97.1059, 97.1065, and 97.1067; the repeal of §§97.1061, 97.1063, and 97.1064; and new §§97.1061, 97.1063, 97.1064, and 97.1066, concerning Accreditation Status, Standards, and Sanctions. The proposed amendments, repeals, and new sections would update processes and procedures related to campus sanctions and interventions to reflect changes made by House Bill (HB) 1842, 84th Texas Legislature, Regular Session, 2015.

HB 1842, 84th Texas Legislature, Regular Session, 2015, amended the Texas Education Code (TEC), Chapter 39, relating to interventions and sanctions for campuses that do not meet state accountability standards.

The proposed revisions to 19 TAC Chapter 97, Subchapter EE, would reflect changes made by HB 1842, as follows.

The proposed amendment to 19 TAC §97.1051, Definitions, would revise definitions to: provide a definition of board of managers, which must, if possible, include the statutory requirements of community leaders, business representatives, and education experts; provide a definition of campus turnaround that highlights achieving acceptable performance within two years, which is the timeframe required by the statutory changes to TEC, §39.107, for a turnaround plan to achieve its purpose, and that clarifies that interventions initiated by statute due to "unacceptable performance" will be those ratings established under the academic accountability manual as unacceptable in any particular year; remove the definition of campus closure, which prohibited its use for educational purposes as the changes to TEC, §39.107, allow its use for educational purposes in certain instances. Proposed new §97.1066 would detail current options; remove language regarding campus closure, which,