



INTEROFFICE MEMO

Gary Grief, Executive Director

Alfonso D. Royal III, Charitable Bingo Operations Director

Approved

Denied

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

From: Deanne Rienstra, Assistant General Counsel

Date: August 8, 2017

Re: Consideration of and possible discussion and/or action, including proposal, on new §401.324 (Prize Winner Election to Remain Anonymous)

Attached for your consideration is Commission staff's proposal for new §401.324 (Prize Winner Election to Remain Anonymous). The purpose of the new rule is to implement recent legislative changes made by House Bill 59, relating to certain lottery prize winners' choice to remain anonymous. House Bill 59 establishes Texas Government Code §466.411, effective September 1, 2017, which will apply to any lottery prize claim submitted after January 1, 2018. This legislation, signed by Governor Abbott on June 12, 2017, permits a lottery prize winner of \$1,000,000 or more, who is a natural person, the opportunity to elect to remain anonymous, in certain instances, by prohibiting all personally identifiable information from being released to the public. Prior to this legislation, the name of the prize winner, whether a natural person or legal entity, was released to the public pursuant to the Texas Public Information Act. Additionally, the name of a prize winner who is a natural person, but who elects to receive the prize payments in periodic installments, will only be withheld for thirty (30) days from the date of the claim. House Bill 59 requires the Commission to adopt rules and procedures to implement this law no later than December 1, 2017.

Recommendation: Staff recommends the Commission initiate the rulemaking process by publishing the attached proposal in the *Texas Register* to receive public comment for a period of 30 days.

1 The Texas Lottery Commission (Commission) proposes new 16 TAC §401.324 (Prize
2 Winner Election to Remain Anonymous). The purpose of the new rule is to implement recent
3 legislative changes made by House Bill 59, relating to certain lottery prize winners' choice to
4 remain anonymous. House Bill 59 establishes Texas Government Code §466.411, effective
5 September 1, 2017, which will apply to any lottery prize claim submitted after January 1, 2018.
6 This legislation, signed by Governor Abbott on June 12, 2017, permits a lottery prize winner of
7 \$1,000,000 or more, who is a natural person, the opportunity to elect to remain anonymous, in
8 certain instances, by prohibiting all personally identifiable information from being released to the
9 public. Prior to this legislation, the name of the prize winner, whether a natural person or legal
10 entity, was released to the public pursuant to the Texas Public Information Act. Additionally, the
11 name of a prize winner who is a natural person, but who elects to receive the prize payments in
12 periodic installments, will only be withheld for thirty (30) days from the date of the claim. House
13 Bill 59 requires the Commission to adopt rules and procedures to implement this law no later than
14 December 1, 2017.

15 Kathy Pyka, Controller, has determined that for each year of the first five years the new
16 rule will be in effect, there will be no significant fiscal impact for state or local governments as a
17 result of the proposed new rule. There will be no adverse effect on small businesses, micro
18 businesses, or local or state employment. There will be no additional economic cost to persons
19 required to comply with the new rule, as proposed. Furthermore, an Economic Impact Statement
20 and Regulatory Flexibility Analysis is not required because the new rule will not have an adverse
21 economic effect on small businesses as defined in Texas Government Code §2006.001(2).

22 Michael Anger, Director of Lottery Operations, has determined that for each year of the
23 first five years the proposed new rule will be in effect, the public benefit anticipated is the

1 opportunity for certain prize winners of a lottery prize in an amount equal to \$1 million or more to
2 elect to remain anonymous and prohibit all personally identifiable information from being released
3 to the public.

4 The Commission requests comments on the proposed new rule from any interested person.
5 Comments on the new rule may be submitted to Deanne Rienstra, Assistant General Counsel, by
6 mail at Texas Lottery Commission, P.O. Box 16630, Austin, Texas 78761-6630; by facsimile at
7 (512) 344-5189; or by email at *legal.input@lottery.state.tx.us*. Comments must be received within
8 30 days after publication of this proposal in the Texas Register in order to be considered.

9 The new rule is proposed under Texas Government Code §466.015, which authorizes the
10 Commission to adopt rules governing the operation of the lottery and §467.102, which authorizes
11 the Commission to adopt rules for the enforcement and administration of the laws under the
12 Commission's jurisdiction.

13 This proposal is intended to implement Texas Government Code, Chapter 466.

14 §401.324. Prize Winner Election To Remain Anonymous.

15 (a) A natural person who is a prize winner of a lottery prize in an amount equal to \$1 million or
16 more, or who is an owner of a beneficial interest in a legal entity that is a prize winner of a lottery
17 prize in an amount equal to \$1 million or more, may on the date the winner claims the prize elect
18 to remain anonymous and prohibit all personally identifiable information from being released to
19 the public.

20 (1) A prize winner who elects to remain anonymous must specify that choice at the time of
21 claiming their lottery prize.

22 (2) If the prize is paid in periodic installments, and the prize winner elects to remain
23 anonymous, the commission may release the prize winner's name on or after the 30th day after the

1 date the person claims the lottery prize. All other personally identifiable information is subject to
2 section 466.022(b)(3) of the State Lottery Act and the Texas Public Information Act (Texas
3 Government Code, Chapter 552).

4 (b) "Prize winner" means a person who presents a valid winning ticket, claims a lottery prize, and
5 is recognized by the commission as the person entitled to receive lottery prize payments. The term
6 does not include an assignee of a lottery prize.

7 (c) "Personally identifiable information" means information that alone or in conjunction with other
8 information identifies an individual, including an individual's name, social security number, date
9 of birth, or government-issued identification number such as a driver's license or passport.

10 "Personally identifiable information" does not include the name of the prize winner's city or
11 county of residence.

12 (d) The amount of a lottery prize is determined by the total amount of prize money paid to a prize
13 winner for a single lottery prize claim, before deducting any federal tax withholdings or other
14 deductions required by law. If a prize winner selects to receive the cash value option, the amount
15 the commission paid to fund the cash value option (before taxes and other deductions) will be
16 considered the prize money paid. In accordance with lottery claim procedures, all prizes resulting
17 from a single lottery ticket will be combined on a single lottery claim form and considered a single
18 lottery prize claim for determining the total amount of prize money paid.

19 (e) The commission may release the name of a legal entity that is a prize winner, as well as the
20 name of the authorized representative of the legal entity (whose name is printed on the lottery
21 claim form) unless the authorized representative is a beneficial interest owner of the legal entity
22 and elects to remain anonymous.

1 (f) A prize winner’s choice to remain anonymous under this rule does not prohibit the commission
2 from requiring, for claim validation and lottery prize processing purposes, certain government-
3 issued identification, including but not limited to a driver’s license, social security card, or
4 passport, of all natural persons who are prize winners or owners of a beneficial interest of a legal
5 entity prize winner.

6 (g) In certain instances, the lottery prize claim processing may be delayed and not occur on the
7 same date the lottery claim is submitted to the commission. In these cases, the day of final
8 validation and processing of the lottery prize will be considered the “date on which the claim is
9 made”.

10 (h) The commission may release personally identifiable information of lottery prize winners to
11 other state agencies, or governmental bodies as required by law.