





# INTEROFFICE MEMO

Gary Grief, Executive Director      Ed Rogers, Acting Charitable Bingo Operations Director

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

**From:** Deanne Rienstra, Special Counsel *DR*

**Date:** June 21, 2018

**Re:** Consideration of and possible discussion and/or action, including adoption, on amendments to 16 TAC §401.308 ("Cash Five" Draw Game Rule)

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Attached is a draft rule prepared for submission to the *Texas Register* to adopt amendments to 16 TAC §401.308 ("Cash Five" Draw Game Rule) without changes to the proposed text as published in the April 27, 2018, issue of the *Texas Register* (43 TexReg 2507) (also attached). The amendments change the Cash Five game matrix, offer guaranteed (fixed) prizes and set a liability limit for the Match 5 top prize. The new game matrix will change from the selection of 5 numbers out of a field of 37 numbers to a selection of 5 numbers out of a field of 35 numbers. This matrix change will improve the overall odds to win a prize in the Cash Five game.

A public comment hearing was held on Wednesday, May 9, 2018, at 9:30 a.m., at 611 E. 6<sup>th</sup> Street, Austin, Texas 78701. No individuals were present at the hearing. However, the Commission did receive three written comments on the proposed amendments during the public comment period. Two of the comments were generally opposed to the Cash Five game changes and one comment from a representative of the Lotto Report has also opposed the changes. These comments are summarized and addressed in the preamble to the attached draft rule amendments. No changes were made to the rule amendments in this proceeding based on the comments received.

Recommendation: Staff recommends the Commission adopt the attached rule amendments to 16 TAC §401.308 ("Cash Five" Draw Game Rule).

1           The Texas Lottery Commission (Commission) adopts amendments to 16 TAC §401.308  
2 (“Cash Five” Draw Game Rule) without changes to the proposed text as published in the April 27,  
3 2018, issue of the *Texas Register* (43 TexReg 2507). The amendments change the Cash Five game  
4 matrix, offer guaranteed (fixed) prizes and set a liability limit for the Match 5 top prize. The new  
5 game matrix will change from the selection of 5 numbers out of a field of 37 numbers to a selection  
6 of 5 numbers out of a field of 35 numbers. This matrix change will improve the overall odds to  
7 win a prize in the Cash Five game.

8           A public comment hearing was held on Wednesday, May 9, 2018, at 9:30 a.m., at 611 E.  
9 6<sup>th</sup> Street, Austin, Texas 78701. No individuals were present at the hearing. However, the  
10 Commission did receive three written comments on the proposed amendments during the public  
11 comment period. Two of the comments only stated opposition to the game changes. A third  
12 comment was from a representative of the Lotto Report.

13           COMMENT SUMMARY: The Lotto Report is opposed to the proposed changes to the  
14 Cash Five game because the changes will reduce prize amounts, which, in turn, will not increase  
15 sales or entice more people to play Cash Five. The commenter describes the decline in the Cash  
16 Five game sales and participation over several years. The commenter asserts that the deletion of  
17 the prize allocation and “guaranteed” 50% prize pool from the new rule is so that the Lottery does  
18 not have to return 50% of sales to the players, which makes more money for the Lottery. The  
19 commenter states that players want to win something worthwhile, not \$1 or \$2 “breakeven”  
20 amounts (which should not be considered “wins”), therefore, the pari-mutuel and roll down aspects  
21 of the game should remain in place. The commenter also points out that from May 1, 2017 to May  
22 23, 2018, there have been 331 Cash Five drawings, of which a ticket winning the Match 5 of 5  
23 occurred only 80 times (94 including multiple winners in a drawing), therefore, the top prize

1 amount rolled down to the Match 4 of 5 winners, creating more winners than there will be in the  
2 new game with fixed prize amounts. The commenter also predicts that the free quick pick tickets  
3 awarded for the Match 2 of 5 tier level will most likely be non-winning tickets.

4 COMMISSION RESPONSE: The Commission's mandate is to generate revenue for  
5 Texas education and veterans through the sale of lottery tickets. Changes to lottery draw games  
6 are necessary to keep games fresh and interesting for players. When changing a game, the  
7 Commission obtains input from the lottery operator, who is contractually required to develop,  
8 research and propose draw game concepts, on the best way to make changes to increase sales. The  
9 Commission disagrees with the comments made by the representative of the Lotto Report. The  
10 prize payout for the proposed Cash Five game will be 50.97% over time. (Similar to Pick 3 and  
11 Daily 4, the prize payout percentage will vary from draw to draw due to the fixed prize amounts.)  
12 The 50.97% payout percentage was verified by the lottery operator and by the independent  
13 statistical consulting firm. The current version of the Cash Five game that is pari-mutuel and offers  
14 a roll-down feature has been experiencing sales declines. The Commission believes that  
15 guaranteeing prize amounts in the game and improving the odds of winning for players will  
16 increase player and retailer interest leading to increased sales, which will, in turn, lead to increased  
17 revenue generation for Texas education and veterans and increased commissions for retailers.

18 The rule amendments are adopted under the Texas Government Code §466.015, which  
19 authorizes the Commission to adopt rules governing the operation of the lottery, and §467.102,  
20 which authorizes the Commission to adopt rules for the enforcement and administration of the  
21 laws under the Commission's jurisdiction.

22 The adopted amendments implement Texas Government Code, Chapter 466.  
23 §401.308. "Cash Five" Draw Game Rule.

1 (a) Cash Five. A Texas Lottery draw game to be known as "Cash Five" is authorized to be  
2 conducted by the executive director under the following rules and under such further instructions  
3 and directives as the executive director may issue in furtherance thereof. If a conflict arises  
4 between this rule and §401.304 of this title (relating to Draw Game Rules (General)), this section  
5 shall have precedence.

6 (b) Definitions. In addition to the definitions provided in §401.301 of this title (relating to General  
7 Definitions), and unless the context in this rule otherwise requires, the following definitions apply.

8 (1) Multi-draw--A player may purchase a Cash Five play for up to 12 consecutive drawings  
9 beginning with the current draw.

10 (2) Number--Any play integer from one through 35 inclusive.

11 (3) Play--The five numbers selected and printed on the ticket.

12 (4) Play board--A field of the 35 numbers found on the playslip.

13 (5) Playslip--An optically readable card issued by the commission used by players of Cash  
14 Five to select plays. There shall be five play boards on each playslip identified as A, B, C, D, and  
15 E. A playslip has no pecuniary value and shall not constitute evidence of play purchase or of  
16 numbers selected.

17 (c) Play for Cash Five.

18 (1) Type of play. A Cash Five player must select 5 (five) numbers out of a field of 35  
19 (thirty-five) numbers in each play or allow number selection by a random number generator  
20 approved by the commission, referred to as Quick Pick. A winning play is achieved only when  
21 two, three, four, or five of the numbers selected by the player match, in any order, two, three, four,  
22 or five, respectively, of the five winning numbers drawn by the lottery.

23 (2) The price of a single Cash Five play for the Cash Five game is \$1.00.

1           (3) Method of play. The player may use playslips, or other commission-approved method  
2 of play, to make number selections. A ticket generated using a selection method that is not  
3 approved by the commission is not valid. A selection of a play may be made only if the request is  
4 made in person. Acceptable methods to select numbers for a play may include:

- 5           (A) using a self-service terminal;
- 6           (B) using a playslip;
- 7           (C) using a previously-generated "Cash Five" ticket provided by the player;
- 8           (D) requesting a retailer to use Quick Pick;
- 9           (E) requesting a retailer to manually enter numbers; or
- 10          (F) using a QR code generated through a Texas Lottery Mobile Application offered  
11 and approved by the commission.

12           (4) Except as provided in paragraph (3) of this subsection, Cash Five plays must be  
13 purchased using official Cash Five playslips. Playslips which have been mechanically completed  
14 are not valid. Cash Five tickets must be printed on official Texas Lottery paper stock or, for third-  
15 party point-of-sale systems approved by the commission, printed on paper stock or otherwise  
16 issued in a manner approved by the commission to provide tangible evidence of participation in a  
17 lottery game.

18           (5) Cash Five plays may be purchased only at a licensed location from a lottery retailer  
19 authorized to sell draw game tickets.

20           (6) Cash Five tickets shall show the player's selection of numbers, or Quick Pick (QP)  
21 numbers, boards played, drawing date(s), and serial numbers. It shall be the exclusive  
22 responsibility of the player to verify the accuracy of the player's selection(s) and other data printed  
23 on the ticket. A ticket is a bearer instrument until signed.

1 (7) One prize per play. The holder of a winning play may win only one prize per play in  
 2 connection with the winning numbers drawn and shall be entitled only to the highest prize category  
 3 won by those numbers.

4 (d) Prizes for Cash Five. The first, second, and third prize amounts, for each drawing, paid to each  
 5 Cash Five player who selects a matching combination of numbers is a fixed amount shown in the  
 6 chart below, Figure: 16 TAC §401.308(d). The Match 5 top prize is a guaranteed (fixed) amount  
 7 of \$25,000; provided that, in any drawing where the number of top prize winning plays is greater  
 8 than three (3), the top prize shall be paid on a pari-mutuel rather than fixed prize basis and a liability  
 9 cap of \$75,000 (Seventy-Five Thousand Dollars) will be divided equally by the number of top  
 10 prize winning plays. In this case, the calculation of the Match 5 top prize shall be rounded down  
 11 so that prizes can be paid in multiples of whole dollars. Any part of the top pari-mutuel prize for a  
 12 drawing that is not paid in prizes (breakage) shall be applied to offset prize expense. The Match 2  
 13 (fourth prize) is a guaranteed free Cash Five Quick Pick ticket. All other prizes are paid in cash.

14 Figure: 16 TAC §401.308(d)

<b>Matching Combinations</b>	<b>Prize Category</b>	<b>Prize Amount</b>	<b>Odds of Winning</b>
Match 5 - All five matching numbers in one play	First (Top) Prize	\$25,000.00*	1:324,632
Match 4 - Any four, but not five matching numbers in one play	Second Prize	\$350.00	1:2,164
Match 3 - Any three, but not four or five matching	Third Prize	\$15.00	1:75

numbers in one play			
Match 2 - Any two, but not three, four or five, matching numbers in one play.	Fourth Prize	Free Cash Five Quick Pick Ticket  (\$1 value)	1:8
Totals	N/A	N/A	1:7.20
<i>*In any drawing where the number of top prize winning plays is greater than three (3), the top prize shall be paid on a pari-mutuel rather than fixed prize basis and a liability cap of \$75,000 will be divided equally by the number of top prize winning plays.</i>			

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2 (e) Drawings.

3 (1) The Cash Five drawings shall be held each week on Monday, Tuesday, Wednesday,  
4 Thursday, Friday, and Saturday evenings at 10:12 p.m. Central Time except that the drawing  
5 schedule may be changed by the executive director, if necessary.

6 (2) The drawings will be conducted by lottery officials.

7 (3) Each drawing shall determine, at random, five winning numbers in accordance with  
8 Cash Five draw procedures. Any numbers drawn are not declared winning numbers until the  
9 drawing is certified by the lottery in accordance with the draw procedures. The winning numbers  
10 shall be used in determining all Cash Five winners for that drawing.

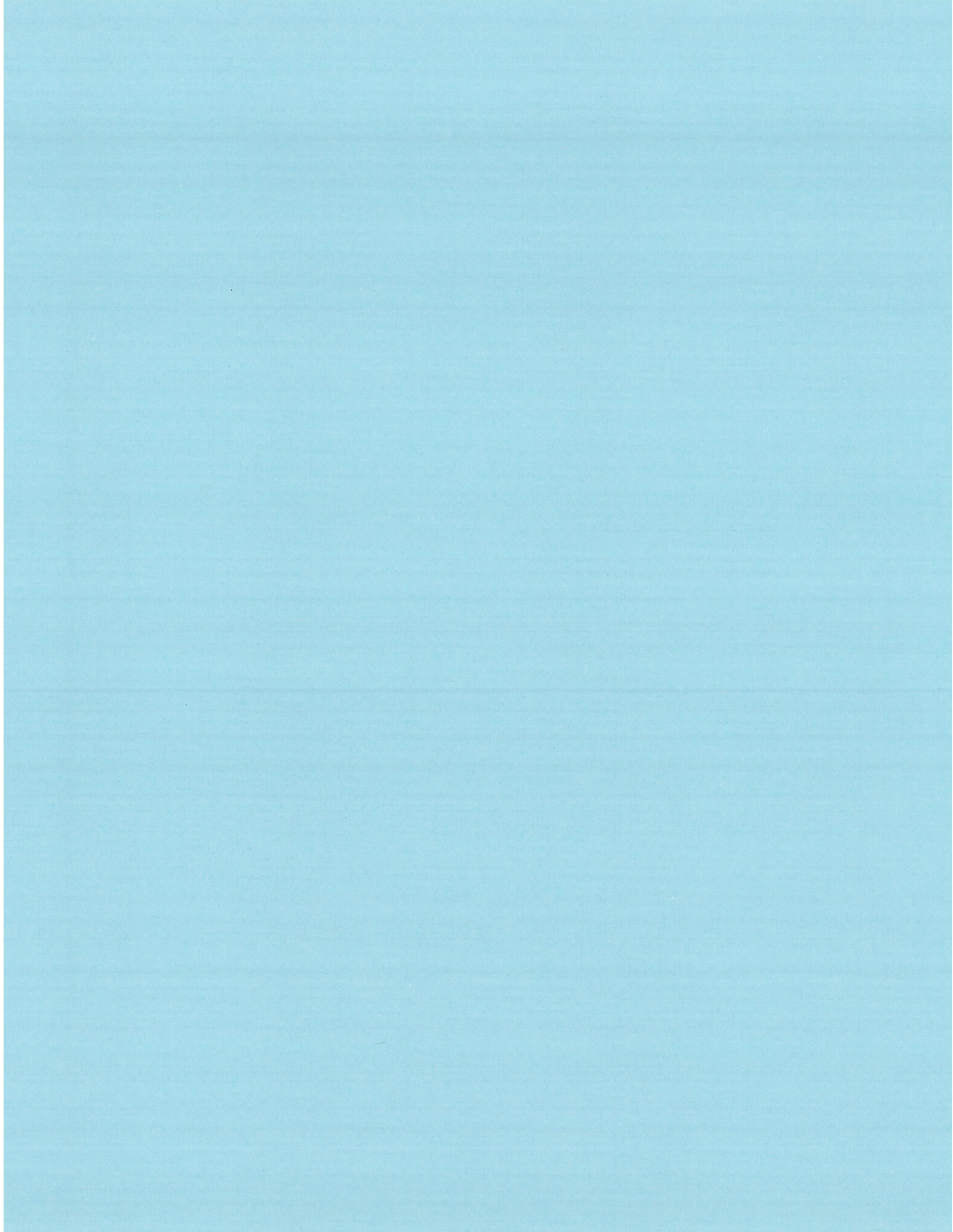
11 (4) Each drawing shall be witnessed by an independent certified public accountant. All  
12 drawing equipment used shall be examined by a lottery drawing representative and the independent  
13 certified public accountant immediately prior to a drawing and immediately after the drawing.

14 (5) A drawing will not be invalidated based on the financial liability of the lottery.



1 (f) The executive director may authorize promotions in connection with Cash Five.

2 (g) Announcement of incentive or bonus program. The executive director shall announce each  
3 incentive or bonus program prior to its commencement. The announcement shall specify the  
4 beginning and ending time, if applicable, of the incentive or bonus program and the value for the  
5 award.



# PROPOSED RULES

Proposed rules include new rules, amendments to existing rules, and repeals of existing rules. A state agency shall give at least 30 days' notice of its intention to adopt a rule before it adopts the rule. A state agency shall give all interested persons a reasonable opportunity to submit data, views, or arguments, orally or in writing (Government Code, Chapter 2001).

Symbols in proposed rule text. Proposed new language is indicated by underlined text. ~~Square brackets and strikethrough~~ indicate existing rule text that is proposed for deletion. "(No change)" indicates that existing rule text at this level will not be amended.

## TITLE 16. ECONOMIC REGULATION

### PART 9. TEXAS LOTTERY COMMISSION

#### CHAPTER 401. ADMINISTRATION OF STATE LOTTERY ACT

##### SUBCHAPTER D. LOTTERY GAME RULES

###### 16 TAC §401.308

The Texas Lottery Commission (Commission) proposes amendments to 16 TAC §401.308 ("Cash Five" Draw Game Rule). The purpose of the amendments is to change the Cash Five game matrix, offer guaranteed (fixed) prizes and set a liability limit for the Match 5 top prize. The new game matrix will change from the selection of 5 numbers out of a field of 37 numbers to a selection of 5 numbers out of a field of 35 numbers. This matrix change will improve the overall odds to win a prize in the Cash Five game.

The proposed amendments offer guaranteed prizes per prize tier level for matching three or more of the drawn winning combination of numbers and will award a free Cash Five Quick Pick (\$1 value) for the fourth tier prize level in which a player matches 2 of the 5 numbers selected in the drawing. The amendments also propose to set a liability limit of \$75,000 for the Match 5 top prize in the game. The Match 5 prize in Cash Five is proposed to be a fixed amount of \$25,000, unless the Match 5 number of winners is greater than three (3), then the Match 5 prize shall be paid on a pari-mutuel rather than fixed prize basis and the liability limit of \$75,000 will be divided equally by the number of Match 5 winners. The practice of setting a liability limit is a common lottery industry practice for games that offer fixed or guaranteed prizes. The cost of the ticket will remain at \$1 per play.

Kathy Pyka, Controller, has determined that for each year of the first five years the amendments will be in effect, there will be no significant fiscal impact for state or local governments as a result of the proposed amendments. There will be no adverse effect on small businesses or rural communities, micro businesses, or local or state employment. There will be no additional economic cost to persons required to comply with the amendments as proposed. Furthermore, an Economic Impact Statement and Regulatory Flexibility Analysis is not required because the proposed amendments will not have an adverse economic effect on small businesses or rural communities as defined in Texas Government Code §2006.001(1-a) and (2).

Ryan Mindell, Acting Director of Lottery Operations, has determined that for each year of the first five years the proposed amendments will be in effect, the public benefit expected is increased sales due to additional player interest in the better

overall odds and guaranteed prize tiers in the Cash Five game. These increased sales will lead to additional revenue for the Foundation School Fund and increased commissions for retailers.

Pursuant to Texas Government Code §2001.0221, the Commission provides the following Government Growth Impact Statement for the proposed amendments to the "Cash Five" Draw Game Rule. For each year of the first five years the proposed amendments will be in effect, Kathy Pyka, Controller, has determined the following:

- (1) The proposed rule amendments do not create or eliminate a government program.
- (2) Implementation of the proposed rule amendments does not require the creation of new employee positions or the elimination of existing employee positions.
- (3) Implementation of the proposed rule amendments does not require an increase or decrease in future legislative appropriations to the Commission.
- (4) The proposed rule amendments do not require an increase or decrease in fees paid to the Commission.
- (5) The proposed rule amendments do not create a new regulation.
- (6) The proposal amends, but does not expand or limit, an existing Commission rule for a lottery draw game.
- (7) The proposed rule amendments do not increase or decrease the number of individuals subject to the rule's applicability.
- (8) The proposed rule amendments do not positively or adversely affect this state's economy.

The Commission requests comments on the proposed amendments from any interested person. Comments on the proposed amendments may be submitted to Deanne Rienstra, Special Counsel, by mail at Texas Lottery Commission, P.O. Box 16630, Austin, Texas 78761-6630; by facsimile at (512) 344-5189; or by email at [legal.input@lottery.state.tx.us](mailto:legal.input@lottery.state.tx.us). The Commission will hold a public hearing on this proposal on May 9, 2018, at 9:30 a.m., at 611 E. 6th Street, Austin, Texas 78701. Comments must be received within 30 days after publication of this proposal in the *Texas Register* in order to be considered.

These amendments are proposed under Texas Government Code §466.015, which authorizes the Commission to adopt rules governing the operation of the lottery, and §467.102, which authorizes the Commission to adopt rules for the enforcement and administration of the laws under the Commission's jurisdiction.

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

§401.308. "Cash Five" Draw Game Rule.

(a) (No change.)

(b) Definitions. In addition to the definitions provided in §401.301 of this title (relating to General Definitions), and unless the context in this rule otherwise requires, the following definitions apply.

[(1) Advance Play--A player may purchase a Cash Five ticket for any of the five Cash Five drawings immediately following the current drawing. Example: On Monday, before the drawing, a Cash Five ticket can be purchased for Tuesday, Wednesday, Thursday, Friday, or Saturday drawings.]

(1) [(2)] Multi-draw--A player may purchase a Cash Five play [ticket] for up to 12 consecutive drawings beginning with the current draw.

(2) [(3)] Number--Any play integer from one through 35 [37] inclusive.

(3) [(4)] Play--The five numbers selected [on each play board] and printed on the ticket.

(4) [(5)] Play board--A field of the 35 [37] numbers found on the playslip.

(5) [(6)] Playslip--An optically readable card issued by the commission used by players of Cash Five to select plays. There shall be five play boards on each playslip identified as A, B, C, D, and E. A playslip has no pecuniary value and shall not constitute evidence of play [ticket] purchase or of numbers selected.

[(e) Price of ticket. The price of each Cash Five play shall be \$1.00. Multiple draws are available for up to 12 consecutive draws beginning with the current draw. A player may purchase a Cash Five ticket for advance play.]

(c) [(d)] Play for Cash Five.

(1) Type of play. A Cash Five player must select 5 (five) [five] numbers out of a field of 35 (thirty-five) numbers in each play or allow number selection by a random number generator approved by the commission, referred to as Quick Pick. A winning play is achieved only when two, three, four, or five of the numbers selected by the player match, in any order, two, three, four, or five, respectively, of the five winning numbers drawn by the lottery.

(2) The price of a single Cash Five play for the Cash Five game is \$1.00.

(3) [(2)] Method of play. The player may use playslips, or other commission-approved method of play, to make number selections. A ticket generated using a selection method that is not approved by the commission is not valid. A selection of a play may be made only if the request is made in person. Acceptable methods to select numbers for a play may include:

(A) using a self-service terminal;

(B) using a playslip;

(C) using a previously-generated "Cash Five" ticket provided by the player;

(D) requesting a retailer to use Quick Pick;

(E) requesting a retailer to manually enter numbers; or

(F) using a QR code generated through a Texas Lottery Mobile Application offered and approved by the commission.

(4) Except as provided in paragraph (3) of this subsection, Cash Five plays must be purchased using official Cash Five playslips. Playslips which have been mechanically completed are not valid. Cash

Five tickets must be printed on official Texas Lottery paper stock or, for third-party point-of-sale systems approved by the commission, printed on paper stock or otherwise issued in a manner approved by the commission to provide tangible evidence of participation in a lottery game.

(5) Cash Five plays may be purchased only at a licensed location from a lottery retailer authorized to sell draw game tickets.

(6) Cash Five tickets shall show the player's selection of numbers, or Quick Pick (QP) numbers, boards played, drawing date(s), and serial numbers. It shall be the exclusive responsibility of the player to verify the accuracy of the player's selection(s) and other data printed on the ticket. A ticket is a bearer instrument until signed.

(7) [(3)] One prize per play. The holder of a winning play [ticket] may win only one prize per play in connection with the winning numbers drawn and shall be entitled only to the highest prize category won by those numbers.

(d) [(e)] Prizes for Cash Five.

[(1)] [Prize amounts:] The first, second, and third prize amounts, for each drawing, paid to each Cash Five player who selects a matching combination of numbers is a fixed amount shown in the chart below, Figure: 16 TAC §401.308(d). The Match 5 top prize is a guaranteed (fixed) amount of \$25,000; provided that, in any drawing where the number of top prize winning plays is greater than three (3), the top prize shall be paid on a pari-mutuel rather than fixed prize basis and a liability cap of \$75,000 (Seventy-Five Thousand Dollars) will be divided equally by the number of top prize winning plays. In this case, the [will vary due to a pari-mutuel calculation. The] calculation of the Match 5 top [a] prize shall be rounded down so that prizes can be paid in multiples of whole dollars. Any part of the top pari-mutuel prize for a drawing that is not paid in prizes (breakage) shall be applied to offset prize expense. [Each prize category breakage will carry forward to the next drawing for each respective prize category. The prize amounts are based on the total amount in the prize category for that Cash Five drawing distributed equally over the number of matching combinations in each prize category.] The Match 2 (fourth prize) [fourth prize] is a guaranteed free Cash Five Quick Pick ticket. All other prizes are paid in cash. [\$2 prize.]

Figure: 16 TAC §401.308(d)

[Figure: 16 TAC §401.308(e)(1)]

[(2) Prize pool. The prize pool for Cash Five prizes shall be a minimum of 50% of Cash Five sales. This pool will be allocated into two components: The first component consists of the funds necessary to pay all the fourth prize category \$2 prize winners. The first component is obtained by an allocation from the Cash Five prize pool to the fourth prize category so that all of the fourth prize category shares will each receive the guaranteed \$2 prize. The second component contains the remaining prize pool funds after subtraction of the first component allocation and will be referred to as the "residual prize pool". The residual prize pool will be allocated to the first, second, and third prize categories according to the percentages applicable for each prize category.]

[(3) Prize categories:]

[(A) First prize--The prize amount shall be calculated by dividing the prize category contributions by the number of shares for the prize category. A share is the matching combination, in one play, of all five numbers of the five numbers drawn (in any order). Each first prize will be paid in one lump-sum payment. The five-of-five first prize of \$600 to \$2,500,000 must be claimed at a Lottery claim center. Five-of-five prizes of over \$2,500,000 must be claimed at the commission headquarters in Austin. The total prize category contribution for a drawing will include the following:]

~~[(i)]~~ The direct prize category contribution shall be 40.15% of the residual prize pool for the drawing.]

~~[(ii)]~~ If the first prize is not won by a Cash Five player from the drawing, the direct prize category contribution will roll into the second prize category.]

~~[(B)]~~ Second prize--The prize amount shall be calculated by dividing the prize category contributions by the number of shares for the prize category. A share is the matching combination, in one play, of any four of the five numbers drawn (in any order). The total prize category contribution will include the following:]

~~[(i)]~~ The direct prize category contribution shall be 18.08% of the residual prize pool for the drawing.]

~~[(ii)]~~ If the second prize is not won by a Cash Five player from the drawing, the direct prize category contribution will roll into the third prize category.]

~~[(C)]~~ Third prize--The prize amount shall be calculated by dividing the prize category contributions by the number of shares for the prize category. A share is the matching combination, in one play, of any three of the five numbers drawn (in any order). The total prize category contribution will include the following:]

~~[(i)]~~ The direct prize category contribution shall be 41.77% of the residual prize pool for the drawing.]

~~[(ii)]~~ If the third prize is not won by a Cash Five player from the drawing, the direct prize category contribution will carry forward to the prize pool for the next drawing.]

~~[(D)]~~ Fourth prize--The prize amount is a guaranteed \$2.]

~~[(f)]~~ Ticket purchases.]

~~[(1)]~~ Cash Five tickets may be purchased only at a licensed location from a lottery retailer authorized to sell draw game tickets.]

~~[(2)]~~ Cash Five tickets shall show the player's selection of numbers, or Quick Pick (QP) numbers, boards played, drawing date, and serial numbers.]

~~[(3)]~~ It shall be the exclusive responsibility of the player to verify the accuracy of the player's selection(s) and other data printed on the ticket. A ticket is a bearer instrument until signed.]

~~[(4)]~~ Except as provided in subsection (d)(2) of this section, Cash Five tickets must be purchased using official Cash Five playslips. Playslips which have been mechanically completed are not valid. Cash Five tickets must be printed on official Texas Lottery paper stock or, for third-party point-of-sale systems approved by the commission, printed on paper stock or otherwise issued in a manner approved by the commission to provide tangible evidence of participation in a lottery game. Cash Five tickets must be purchased at a licensed location through an authorized retailer's terminal.]

~~(c)~~ ~~[(g)]~~ Drawings.

(1) The Cash Five drawings shall be held each week on Monday, Tuesday, Wednesday, Thursday, Friday, and Saturday evenings at 10:12 p.m. Central Time except that the drawing schedule may be changed by the executive director, if necessary.

(2) The drawings will be conducted by lottery officials.

(3) Each drawing shall determine, at random, five winning numbers in accordance with Cash Five draw procedures. Any numbers drawn are not declared winning numbers until the drawing is certified by the lottery in accordance with the draw procedures. The winning

numbers shall be used in determining all Cash Five winners for that drawing.

(4) Each drawing shall be witnessed by an independent certified public accountant. All drawing equipment used shall be examined by a lottery drawing representative and the independent certified public accountant immediately prior to a drawing and immediately after the drawing.

(5) A drawing will not be invalidated based on the financial liability of the lottery.

~~(f)~~ ~~[(h)]~~ The executive director may authorize promotions in connection with Cash Five.

~~(g)~~ ~~[(i)]~~ Announcement of incentive or bonus program. The executive director shall announce each incentive or bonus program prior to its commencement. The announcement shall specify the beginning and ending time, if applicable, of the incentive or bonus program and the value for the award.

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 13, 2018.

TRD-201801603

Bob Biard

General Counsel

Texas Lottery Commission

Earliest possible date of adoption: May 27, 2018

For further information, please call: (512) 344-5012



## CHAPTER 402. CHARITABLE BINGO OPERATIONS DIVISION

### SUBCHAPTER A. ADMINISTRATION

#### 16 TAC §402.102

The Texas Lottery Commission (Commission) proposes amendments to 16 TAC §402.102 (Bingo Advisory Committee). The purpose of the proposed amendments is to update and streamline the Bingo Advisory Committee (BAC) member eligibility and appointment procedures, and procedural requirements regarding BAC meetings.

Kathy Pyka, Controller, has determined that for each year of the first five years the amendments will be in effect, there will be no fiscal impact for state or local governments as a result of the proposed amendments. There will be no adverse effect on small businesses or rural communities, micro businesses, or local or state employment. There will be no additional economic cost to persons required to comply with the amendments, as proposed. Furthermore, an Economic Impact Statement and Regulatory Flexibility Analysis is not required because the proposed amendments will not have an adverse economic effect on small businesses or rural communities as defined in Texas Government Code §2006.001(1-a) and (2).

J. Winston Krause, Commission Chairman, has determined that for each year of the first five years the proposed amendments will be in effect, the anticipated public benefit is providing greater flexibility to the Commission in administering the BAC process to enhance bingo industry participation in advising the Commission on charitable bingo regulatory issues.