



INTEROFFICE MEMO

Gary Grief, Executive Director Michael P. Farrell, Charitable Bingo Operations Director

	Approved	Denied
To: J. Winston Krause, Chairman Mark A. Franz, Commissioner Robert Rivera, Commissioner		
From: Tyler Vance, Assistant General Counsel		
Date: August 7, 2019		
Re: Consideration of and possible discussion and/or action, including proposal, on amendments to 16 TAC §§ 402.401 (Temporary License), 402.413 (Military Service Members, Military Veterans, and Military Spouses), and 402.422 (Amendment to a Regular License to Conduct Charitable Bingo).		

Attached is a draft rule proposal prepared for submission to the *Texas Register* for amendments to the above-referenced rules. The purpose of the proposed amendments is to implement statutory changes required by the newly enacted House Bill 882 and Senate Bill 1200 from the Regular Session of the 86th Texas Legislature. Effective immediately, House Bill 882 extended the maximum length of a bingo occasion from 4 to 6 hours, and Rules 402.401 and 402.422 are being amended to comply with the new law. The extended hours will give organizations more time and flexibility in conducting bingo and will increase player convenience.

Senate Bill 1200 created an exemption from licensure for spouses of military members residing in Texas who are currently licensed in good standing in another state with substantially equivalent licensing requirements as Texas. The bill directed agencies to adopt rules to implement the new law by December 1, 2020, which the Commission is doing by amending Rule 402.413. The amended rule will make it easier for military spouses to work in the bingo industry while they are stationed in Texas.

The submission prepared for the *Texas Register* includes a notice of public hearing to be held on the proposed amendments at 10:00 a.m. on Wednesday, September 4, 2019.

Recommendation: Staff recommends the Commission initiate the rulemaking process by publishing the attached proposed rule amendments in the *Texas Register* in order to receive public comments for a period of 30 days.

1 The Texas Lottery Commission (Commission) proposes amendments to 16 TAC
2 §§ 402.401 (Temporary License), 402.413 (Military Service Members, Military Veterans, and
3 Military Spouses), and 402.422 (Amendment to a Regular License to Conduct Charitable Bingo).
4 The purpose of the proposed amendments is to implement statutory changes required by newly-
5 enacted House Bill 882 and Senate Bill 1200 from the Regular Session of the 86th Texas
6 Legislature. The proposed amendments extend the maximum length of time for a bingo occasion
7 from four to six hours and create a process for recognition of out-state-licenses held by military
8 spouses residing in Texas.

9 Kathy Pyka, Controller, has determined that for each year of the first five years the
10 amendments will be in effect, there will be no fiscal impact for state or local governments as a
11 result of the proposed amendments that is not attributable to the newly-enacted legislation. There
12 will be no adverse effect on small businesses or rural communities, micro businesses, or local or
13 state employment. There will be no additional economic cost to persons required to comply with
14 the amendments, as proposed. Furthermore, an Economic Impact Statement and Regulatory
15 Flexibility Analysis is not required because the proposed amendments will not have an adverse
16 economic effect on small businesses or rural communities as defined in Texas Government Code
17 §2006.001(1-a) and (2).

18 Michael P. Farrell, Director of the Charitable Bingo Operations Division, has determined
19 that for each year of the first five years the proposed amendments will be in effect, the anticipated
20 public benefit will be to provide organizations with more time and flexibility in conducting bingo,
21 to increase player convenience, to make it easier for military spouses to work in the bingo industry
22 in Texas, and to align the Commission's rules with the newly-enacted statutory language.

1 Pursuant to Texas Government Code §2001.0221, the Commission provides the following
2 Government Growth Impact Statement for the proposed rule. For each year of the first five years
3 the proposed amendments will be in effect, Kathy Pyka, Controller, has determined the following:

4 (1) The proposed amendments do not create or eliminate a government program.

5 (2) Implementation of the proposed amendments does not require the creation of new
6 employee positions or the elimination of existing employee positions.

7 (3) Implementation of the proposed amendments does not require an increase or decrease
8 in future legislative appropriations to the Commission.

9 (4) The proposed amendments do not require an increase or decrease in fees paid to the
10 Commission.

11 (5) The proposed amendments do not create a new regulation.

12 (6) The proposed amendments do not expand or limit an existing regulation.

13 (7) The proposed amendments do not increase or decrease the number of individuals
14 subject to the rule's applicability.

15 (8) The proposed amendments do not positively or adversely affect this state's economy.

16 The Commission requests comments on the proposed amendment from any interested
17 person. Comments may be submitted to Tyler Vance, Assistant General Counsel, by mail at Texas
18 Lottery Commission, P.O. Box 16630, Austin, Texas 78761-6630; by facsimile at (512) 344-5189;
19 or by email at Legal.Input@lottery.state.tx.us. Comments must be received within thirty (30) days
20 after publication of this proposal in the Texas Register in order to be considered. The Commission
21 also will hold a public hearing to receive comments on this proposal at 10:00 a.m. on September
22 4, 2019, at 611 E. 6th Street, Austin, Texas 78701.

1 The amendments are proposed under Texas Occupations Code §2001.054, which
2 authorizes the Commission to adopt rules to enforce and administer the Bingo Enabling Act; Texas
3 Government Code §467.102, which authorizes the Commission to adopt rules for the laws under
4 the Commission's jurisdiction; and Section 3 of HB 882 from the Regular Session of the 86th
5 Texas Legislature, which requires the Commission to adopt rules for its implementation.

6 This proposal is intended to implement Texas Occupations Code, Chapter 2001.
7 §402.401. Temporary License.

8 (a) (No change.)

9 (b) General.

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

14 (2) Duration. A temporary license is valid for no more than six [~~four~~] consecutive hours
15 during any day.

16 (3) - (5) (No change.)

17 (c) - (e) (No change.)

18 §402.413. Military Service Members, Military Veterans, and Military Spouses.

19 (a) - (e) (No change.)

20 (f) A military spouse may engage in any activity for which a license or bingo worker registration
21 is required without obtaining the applicable license or registration if the spouse is currently
22 licensed in good standing by another jurisdiction that has licensing requirements that are
23 substantially equivalent to the requirements for licensure in Texas. Before engaging in the activity,

1 the military spouse must notify the Commission of their intent to conduct the activity in this state
2 and must submit proof of their residency in this state along with a copy of their military
3 identification card. Upon receipt, the Commission will verify that the military spouse is currently
4 licensed in good standing in another state that has licensing requirements that are substantially
5 equivalent to the requirements in Texas. If so, the Commission shall authorize the military spouse
6 to engage in the activity. The authorization is effective only for the period during which the
7 military service member to whom the military spouse is married is stationed at a military
8 installation in this state, not to exceed three years. The authorization may not be renewed. The
9 military spouse shall comply with all other laws and regulations applicable to the business or
10 occupation in this state.

11 §402.422. Amendment to a Regular License to Conduct Charitable Bingo.

12 (a) (No change.)

13 (b) Playing days or playing times.

14 (1) An organization amending its playing day(s) or playing time(s) must specify on the
15 form each playing occasion day and time that the organization intends to conduct bingo at the
16 location.

17 (2) The playing day(s) or time(s) specified on the form may not:

18 (A) conflict with the playing day(s) or time(s) of any other application or license
19 issued for that location;

20 (B) exceed the maximum number of bingo occasions per day allowed under Texas
21 Occupations Code, §2001.419(c) and (d); or

22 (C) exceed three occasions during a calendar week or six [~~four~~] hours per occasion.

23 (c) – (f) (No change.)