




INTEROFFICE MEMO

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

	Approved	Denied
To: J. Winston Krause, Chairman Doug Lowe, Commissioner Robert Rivera, Commissioner		
From: Tyler Vance, Assistant General Counsel 		
Date: April 11, 2019		
Re: Consideration of and possible discussion and/or action, including proposal, on amendments to 16 TAC §402.403 (Licenses for Conduct of Bingo Occasions and to Lease Bingo Premises)		

Attached for your consideration is Commission staff's proposal for the above-referenced rule amendment. The purpose of the proposed amendment is to establish a limit to the length of time that a lessor of bingo premises may defer rent payments owed by a licensed bingo conductor before such deferral is considered a prohibited loan rendering the lessor ineligible for licensure. The Commission is proposing the amendment in response to a recommendation from the Bingo Advisory Committee.

The submission prepared for the *Texas Register* includes a notice of public hearing to be held on the proposed amendment at 10:00 a.m. on Wednesday, May 8, 2019.

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

1 The Texas Lottery Commission (Commission) proposes an amendment to 16 TAC
2 §402.403 (Licenses for Conduct of Bingo Occasions and to Lease Bingo Premises). The purpose
3 of the proposed amendment is to establish a limit to the length of time that a lessor of bingo
4 premises may defer rent payments owed by a licensed bingo conductor before such deferral is
5 considered a prohibited loan rendering the lessor ineligible for licensure. The Commission is
6 proposing the amendment in response to a recommendation from the Bingo Advisory Committee.

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

15 Michael P. Farrell, Director of the Charitable Bingo Operations Division, has determined
16 that for each year of the first five years the proposed amendment will be in effect, the anticipated
17 public benefit is clearer guidance to the regulated community on agency policy.

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

- 21 (1) The proposed amendment does not create or eliminate a government program.
22 (2) Implementation of the proposed amendment does not require the creation of new
23 employee positions or the elimination of existing employee positions.

1 (3) Implementation of the proposed amendment does not require an increase or decrease in
2 future legislative appropriations to the Commission.

3 (4) The proposed amendment does not require an increase or decrease in fees paid to the
4 Commission.

5 (5) The proposed amendment does not create a new regulation.

6 (6) The proposed amendment does not expand or limit an existing regulation.

7 (7) The proposed amendment does not increase or decrease the number of individuals
8 subject to the rule's applicability.

9 (8) The proposed amendment does not positively or adversely affect this state's economy.

10 The Commission requests comments on the proposed amendment from any interested
11 person. Comments may be submitted to Tyler Vance, Assistant General Counsel, by mail at Texas
12 Lottery Commission, P.O. Box 16630, Austin, Texas 78761-6630; by facsimile at (512) 344-5189;
13 or by email at legal.input@lottery.state.tx.us. Comments must be received within thirty (30) days
14 after publication of this proposal in the Texas Register in order to be considered. The Commission
15 also will hold a public hearing to receive comments on this proposal at 10:00 a.m. on May 8, 2019,
16 at 611 E. 6th Street, Austin, Texas 78701.

17 The amendment is proposed under Texas Occupations Code §2001.054, which authorizes
18 the Commission to adopt rules to enforce and administer the Bingo Enabling Act; and Texas
19 Government Code §467.102, which authorizes the Commission to adopt rules for the laws under
20 the Commission's jurisdiction.

21 This proposal is intended to implement Texas Occupations Code, Chapter 2001.
22 §402.403. Licenses for Conduct of Bingo Occasions and to Lease Bingo Premises.

23 (a) License for Conduct of Bingo.

1 (1) A conductor may hold only one regular license to conduct bingo occasions. The license
2 is valid for only the specific days, times, and location indicated on the face of the license.

3 (2) A license authorized organization will be licensed to conduct bingo for specific day(s)
4 of the week at specific time(s) at a specific location and no other license may conflict with those
5 day(s) and time(s).

6 (b) License to lease bingo premises.

7 (1) Each location to be leased as a bingo premises must be separately licensed pursuant to
8 separate applications.

9 (2) Except as required by Occupations Code, §2001.152(a), the Commission may not issue
10 more than one license to lease bingo premises for any one location.

11 (3) When more organizations apply to play bingo at the premises of a commercial lessor
12 than can be licensed for the premises, the Commission will process only the number of applications
13 for which there are openings with the commercial lessor. The Commission will process the
14 applications in the order in which they are received. Additional applications in excess of the
15 number that may be licensed for the commercial lessor's premises will be denied.

16 (4) The commission may not issue a commercial lessor license to or renew the license of a
17 person who has loaned money to an authorized organization. A loan shall include a commercial
18 lessor's collection or acceptance of any rental payments from any accounting unit or any
19 authorized organization more than 120 days from the date of the occasion for which the rent is
20 attributed, and any payments from any accounting unit or any authorized organization for
21 insurance, utilities, or taxes more than 120 days after the date the lessor received an invoice for
22 the charge. This subsection is intended to prohibit a lessor from loaning money to a unit or
23 organization by deferring their debts for more than 120 days to allow the unit or organization to

1 demonstrate higher net proceeds than they could demonstrate if they had paid the debt. If payments
2 are not collected within 120 days, the lessor may forgive the debt or pursue collection through a
3 formal legal process. This rule does not apply to any payments collected or accepted by the lessor
4 pursuant to a court order.

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