CHAPTER 635

H.B. No. 1473

AN ACT

relating to the application of certain requirements affecting certain subdivision golf courses.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 212.0155(a), Local Government Code, is amended to read as follows:

(a) This section applies to land located wholly or partly in the corporate boundaries of a municipality if the municipality:

(1) has a population of more than 50,000; and

(2) is located wholly or partly in [a county with a population of more than three million; or]

   (A) a county with a population of more than 275,000 that is adjacent to a county with a population of more than three million; or

   (B) a county with a population of more than 1.4 million:

      (i) in which two or more municipalities with a population of 300,000 or more are located; and

      (ii) that is adjacent to a county with a population of more than two million.

SECTION 2. (a) Notwithstanding Chapter 245, Local Government Code, the change in law made by Section 212.0155, Local Government Code, as amended by this Act, applies to approval of a plat filed on or after the effective date of this Act or before the effective date of this Act if the approval of a plat filed before the effective date of this Act is not final. A plat filed and approved before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

(b) The change in law made by Section 212.0155, Local Government Code, as amended by this Act, does not apply to a lawsuit filed before the effective date of this Act. That section applies to land that is the subject of a lawsuit filed before the effective date of this Act on the date the decision in that lawsuit becomes final or the suit is otherwise terminated.

SECTION 3. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect on the 91st day after the last day of the legislative session.

Passed by the House on April 22, 2009: Yeas 149, Nays 0, 1 present, not voting; passed by the Senate on May 27, 2009: Yeas 31, Nays 0.

Approved June 19, 2009.


CHAPTER 636

H.B. No. 1474

AN ACT

relating to the operation and regulation of charitable bingo and the use of bingo proceeds.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 2001.002, Occupations Code, is amended by adding Subdivisions (4-a), (8-a), and (25-a) and amending Subdivision (6) to read as follows:

(4-a) "Bingo chairperson" means an officer or member of the board of directors of a licensed authorized organization who is designated in writing by the organization as responsible for overseeing the organization's bingo activities and reporting to the membership relating to those activities.

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(6) "Bingo occasion" means a single gathering or session at which a bingo game or [all activities incident to the conduct of] a series of bingo games, including selling and redeeming pull-tab bingo tickets, are conducted on the day and at the times listed on the license issued to [by] a licensed authorized organization, including the organization's licensed times and any preparatory or concluding activities incident to the conduct of bingo.

(8-a) "Crime of moral turpitude" means:

(A) a felony;
(B) a gambling offense;
(C) criminal fraud;
(D) forgery;
(E) theft;
(F) an offense that involves filing false information with a governmental agency; or
(G) any offense that:
(i) is classified in this state as a Class A misdemeanor; and
(ii) puts the honesty and integrity of the individual who committed the offense in question.

(25-a) "Regular license" means a license to conduct bingo that is issued by the commission and that expires on the first or second anniversary of the date of issuance unless revoked or suspended before that date by the commission. The term includes an annual license.

SECTION 2. Section 2001.059, Occupations Code, is amended by amending Subsection (a) and adding Subsection (g) to read as follows:

(a) An officer, bingo chairperson, or authorized representative of a license holder or an attorney, accountant, or bookkeeper employed or retained by a license holder [A-person] may request from the commission an advisory opinion regarding compliance with this chapter and the rules of the commission.

(g) The commission may refuse to issue an advisory opinion under this section on a matter that the commission knows to be in active litigation.

SECTION 3. Subchapter B, Chapter 2001, Occupations Code, is amended by adding Section 2001.060 to read as follows:

Sec. 2001.060. REPORTING. (a) On or before June 1 of each even-numbered year, the commission shall prepare and deliver to the governor, the lieutenant governor, the speaker of the house of representatives, and the chairs of the standing committees of the senate and house of representatives with primary jurisdiction over charitable bingo a report stating for each of the preceding two calendar years:

(1) the total amount of adjusted gross receipts reported by licensed authorized organizations from their bingo operations;
(2) the total amount of net proceeds reported by licensed authorized organizations from their bingo operations; and
(3) a comparison of the amounts reported under Subdivisions (1) and (2), including the percentage that the net proceeds represents of the adjusted gross receipts.

(b) For purposes of Subsection (a), "adjusted gross receipts" means the amount remaining after deducting prizes paid, excluding prize fees collected from bingo players.

(c) For purposes of Subsection (a), the commission shall determine the total amount of net proceeds in a manner that does not reduce gross receipts by the amount of rent paid for the rental of bingo premises by a licensed authorized organization to another licensed authorized organization if the other organization pays rent for the premises to a licensed commercial lessor.

SECTION 4. Section 2001.101(a), Occupations Code, is amended to read as follows:

(a) The commission may license a person who is an authorized organization eligible for a license to conduct bingo if the person is:
(1) a religious society that has existed in this state for at least three [eight] years;
(2) a nonprofit organization:
   (A) whose predominant activities are for the support of medical research or treatment programs; and
   (B) that for at least three years:
      (i) must have had a governing body or officers elected by a vote of members or by a vote of delegates elected by the members; or
      (ii) must have been affiliated with a state or national organization organized to perform the same purposes as the nonprofit organization;
(3) a fraternal organization;
(4) a veterans organization [that has existed in this state for at least three years;] [or]
(5) a volunteer fire department [that has existed in this state for at least three years; or]
(6) a volunteer emergency medical services provider that has existed in this state for at least three years.

SECTION 5. Sections 2001.102(a) and (b), Occupations Code, are amended to read as follows:
(a) An applicant for a license to conduct bingo must file with the commission an [written, executed, and verified] application on a form prescribed by the commission.
(b) The application must include:
   (1) the name and address of the applicant;
   (2) the names and addresses of the applicant's officers and directors;
   (3) the address of the premises where and the time when the applicant intends to conduct bingo under the license sought;
   (4) the name and address of the licensed commercial lessor of the premises, if the applicant intends to lease premises to conduct bingo from a person other than an authorized organization;
   (5) the capacity or potential capacity for public assembly in any premises owned or occupied by the applicant;
   (6) the amount of rent to be paid or other consideration to be given, directly or indirectly, for each occasion for use of the premises of another licensed authorized organization or for use of the premises of a licensed commercial lessor;
   (7) all other items of expense intended to be incurred or paid in connection with conducting, promoting, and administering bingo and the names and addresses of the persons to whom, and the purposes for which, the expenses are to be paid;
   (8) the specific purposes to and the manner in which the net proceeds of bingo are to be devoted;
   (9) a statement that the net proceeds of bingo will go to one or more of the authorized charitable purposes under this chapter;
   (10) a designation of the applicant organization's bingo chairperson [one or more active members of the applicant organization] under whom bingo will be conducted accompanied by a statement signed by the chairperson [each designated member] stating that the chairperson [member] will be responsible for the conduct of bingo under the terms of the license and this chapter;
   (11) a statement that a copy of the application has been sent to the appropriate governing body;
   (12) the name and address of each person who will work at the proposed bingo occasion, the nature of the work to be performed, and a statement as to whether the person has been convicted of a felony, a gambling offense, criminal fraud, or a crime of moral turpitude; and
   (13) sufficient facts relating to the applicant's incorporation and organization to enable the commission to determine whether the applicant is an authorized organization;
(8) a copy of the applicant organization's most recently filed Internal Revenue Service Form 990, if applicable;

(9) a letter of good standing from the applicant organization's parent organization, if the organization receives an exemption from federal income taxes as a member of a group of organizations;

(10) copies of the applicant organization's organizing instruments, including any bylaws, constitution, charter, and articles of incorporation;

(11) verification of the applicant organization's good standing with the secretary of state if the organization is organized under the law of this state; and

(12) information necessary to conduct criminal background checks on the applicant organization's officers and directors.

SECTION 6. Section 2001.103(e), Occupations Code, is amended to read as follows:

(e) Notwithstanding Subsection (c), an authorized organization that holds an annual [a regular] license to conduct bingo may receive not more than 24 [42] temporary licenses during the 12-month period following the issuance or renewal of the license. The holder of a license that is effective for two years may receive not more than 24 temporary licenses for each 12-month period that ends on an anniversary of the date the license was issued or renewed.

SECTION 7. Section 2001.104, Occupations Code, is amended by amending Subsections (b) and (d) and adding Subsection (e) to read as follows:

(b) The commission by rule shall establish procedures to determine if the appropriate license fee [At the end of the license period the license holder and the commission shall compute the amount of gross receipts actually recorded during the license period to determine if the appropriate fee amount was paid].

(d) An applicant shall pay the fees established under Subsection (a) annually. An applicant for a license or renewal of a license may obtain a license that is effective for two years by paying an amount equal to two times the amount of the annual license fee, or by paying the license fee for the first year at the time the applicant submits the application and the fee for the second year not later than the first anniversary of the date the license becomes effective [plus $25].

(e) A licensed authorized organization may pay in advance, or establish an escrow account with the commission to cover, fees assessed under this chapter for the amendment of a license or issuance of a temporary license.

SECTION 8. Section 2001.105(b), Occupations Code, is amended to read as follows:

(b) The commission may not issue a license to an authorized organization to conduct bingo if an officer or member of the board of directors of the organization has been convicted of a felony, criminal fraud, a gambling or gambling-related offense, or a crime of moral turpitude if less than 10 years has elapsed since the termination of a sentence, parole, mandatory supervision, or community supervision served for the offense.

SECTION 9. Section 2001.106, Occupations Code, is amended to read as follows:

Sec. 2001.106. FORM AND CONTENTS OF LICENSE. A license to conduct bingo must include:

(1) the name and address of the license holder;

(2) the name and address of the bingo chairperson [names and addresses of the member or members] of the license holder under whom the bingo will be conducted; and

(3) the address [an indication] of the premises where and the time when bingo is to be conducted;

(4) the specific purposes to which the net proceeds of bingo are to be devoted; and

(5) a statement of whether a prize is to be offered and the amount of any authorized prize.

SECTION 10. Section 2001.107(a), Occupations Code, is amended to read as follows:

(a) Unless the organization is a member of a unit that designates a unit manager under Section 2001.437, the bingo chairperson for a licensed authorized organization [The person designated under Section 2001.102(b)(10)] shall complete the [eight hours of] training required
For a unit operating under Subchapter I-1, the unit manager shall complete the training if the unit designates a unit manager under Section 2001.437.

SECTION 11. Sections 2001.108(b) and (c), Occupations Code, are amended to read as follows:

(b) If the other organization ceased or will cease conducting bingo for the reason stated in Subsection (a)(1), the commission must act on the joint application filed under Subsection (a) not later than the 14th [10th] day after the date the application is filed with the commission.

c) If the other organization ceased or will cease conducting bingo for the reason stated in Subsection (a)(2), the commission must act on the joint application filed under Subsection (a) not later than the 14th [10th] day after the date the application is filed with the commission or the date on which the termination takes effect, whichever is later.

SECTION 12. Sections 2001.158(b) and (d), Occupations Code, are amended to read as follows:

(b) The commission by rule shall establish procedures for determining if the appropriate license fee [At the end of the license period, the license holder and the commission shall compute the amount of the gross rentals actually recorded during the license period to determine if the appropriate fee amount was paid.]

(d) An applicant for a commercial lessor license shall pay the fees established under Subsection (a) annually. An applicant for a license or renewal of a license may obtain a license that is effective for two years by paying an amount equal to two times the amount of the annual license fee, or by paying the license fee for the first year at the time the applicant submits the application and the license fee for the second year not later than the first anniversary of the date the license becomes effective [plus $25].

SECTION 13. The heading to Section 2001.159, Occupations Code, is amended to read as follows:

Sec. 2001.159. LICENSE ISSUANCE OR RENEWAL.

SECTION 14. Section 2001.159(a), Occupations Code, is amended to read as follows:

(a) The commission shall issue or renew a commercial lessor license if the commission determines that:

1. the applicant has paid the license fee as provided by Section 2001.158;
2. the applicant qualifies to be licensed under this chapter;
3. the applicant satisfies the requirements for a commercial lessor under this subchapter;
4. [the rent to be charged is fair and reasonable [and will be charged and collected in compliance with Section 2001.406];
5. there is no diversion of the funds of the proposed lessee from the lawful purposes under this chapter;
6. the person whose signature or name appears in the application is in all respects the real party in interest and is not an undisclosed agent or trustee for the real party in interest; and
7. the applicant will lease the premises for the conduct of bingo in accordance with this chapter.

SECTION 15. Section 2001.203, Occupations Code, is amended to read as follows:

Sec. 2001.203. MANUFACTURER’S LICENSE APPLICATION. (a) An applicant for a manufacturer’s license must file with the commission an [a written verified] application on a form prescribed by the commission.

(b) The application must include:

1. the name and address of the applicant and the name and address of each of its locations where bingo supplies or equipment are manufactured;
(2) a full description of each type of bingo supply or equipment that the applicant intends 
to manufacture or market in this state and the brand name, if any, under which each item 
will be sold;

(3) (the name and address of the applicant and) if the applicant:

(A) is not a corporation, the name and home address of each owner; or

(B) is a corporation, the name and home address of each officer and director and each 
person owning more than 10 percent of a class of stock in the corporation;

(4) if the applicant is a foreign corporation or other foreign legal entity, the name, 
business name and address, and [home] address of its registered agent for service in this 
state;

(5) the name and address of each manufacturer, supplier, and distributor in which the 
applicant has a financial interest and the details of that financial interest, including any 
indebtedness between the applicant and the manufacturer, supplier, or distributor of $5,000 
or more;

(6) information regarding whether the applicant or a person required to be named in the 
application has been convicted in this state or another state of a felony, criminal fraud, a 
gambling or gambling-related offense, or a crime of moral turpitude;

(7) information regarding whether the applicant or a person required to be named in the 
application is an owner, officer, director, shareholder, agent, or employee of a licensed 
commercial lessor or conducts, promotes, administers, or assists in conducting, promoting, 
or administering bingo for which a license is required by this chapter;

(8) information regarding whether the applicant or a person required to be named in the 
application is a public officer or public employee in this state;

(9) the name of each state in which the applicant is or has been licensed to manufacture, 
distribute, or supply bingo equipment or supplies, each license number, the period of time 
licensed under each license, and whether a license has been revoked, suspended, with-
drawn, canceled, or surrendered and, if so, the reasons for the action taken;

(10) information regarding whether the applicant or a person required to be named in 
the application is or has been a professional gambler or gambling promoter;

(11) the names and addresses of each manufacturer, supplier, or distributor of bingo 
equipment or supplies in which the applicant or a person required to be named in the 
application is an owner, officer, shareholder, director, agent, or employee; and

(12) any other information the commission requests.

SECTION 16. Section 2001.208(b), Occupations Code, is amended to read as follows:

(b) The application must include:

(1) the full name and address of the applicant;

(2) the name and address of each location operated by the distributor from which bingo 
supplies or equipment are distributed or at which bingo supplies or equipment are stored;

(3) if a noncorporate distributor, the name and home address of each owner;

(4) if a corporate distributor, the name and home address of each officer or director and 
of each person owning more than at least 10 percent of a class of stock in the corporation;

(5) if a foreign corporation or other foreign legal entity, the name, business name and 
address, and [home] address of its registered agent for service in this state;

(6) a full description of the type of bingo supply or equipment that the applicant intends 
to store or distribute in this state and the name of the manufacturer of each item and the 
brand name, if any, under which the item will be sold or marketed;

(7) the name and address of a manufacturer, supplier, or distributor in which the 
applicant has a financial interest and the details of that financial interest, including an 
indebtedness between the applicant and the manufacturer, supplier, or distributor of $5,000 
[500] or more;
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(8) information regarding whether the applicant or a person required to be named in the application has been convicted in this state or another state of a felony, criminal fraud, a gambling or gambling-related offense, or a crime of moral turpitude;

(9) information regarding whether the applicant or a person required to be named in the application is an owner, officer, director, shareholder, agent, or employee of a licensed commercial lessee or conducts, promotes, administers, or assists in conducting, promoting, or administering bingo for which a license is required under this chapter;

(10) information regarding whether the applicant or a person required to be named in the application is a public officer or public employee in this state;

(11) the name of each state in which the applicant is or has been licensed to manufacture, distribute, or supply bingo equipment or supplies, each license number, the period of time licensed under each license, and whether a license was revoked, suspended, withdrawn, canceled, or surrendered and, if so, the reasons for the action taken;

(12) information regarding whether the applicant or a person required to be named in the application is or has been a professional gambler or gambling promoter;

(13) the name and address of each manufacturer, supplier, or distributor of bingo equipment or supplies in which the applicant or a person required to be named in the application is an owner, officer, shareholder, director, agent, or employee; and

(14) any other information the commission requests.

SECTION 17. Sections 2001.211(b), (c), and (d), Occupations Code, are amended to read as follows:

(b) If a change occurs after issuance of a manufacturer's or distributor's license, the license holder shall report the change to the commission not later than the 14th day after the date of the change.

(c) Not later than the 14th day after the date of the change, a license holder shall notify the commission of a change in:

(1) the license holder's organization, structure, or mode of operation;

(2) the identity of persons named or required to be named in the application and the nature or extent of those persons' interest; or

(3) any other facts stated in the application.

(d) Failure to give a notice required under this section is cause for:

(1) denial, suspension, or revocation of a license; or

(2) imposition of an administrative penalty or other administrative action.

SECTION 18. Subchapter G, Chapter 2001, Occupations Code, is amended by adding Section 2001.3025 to read as follows:

Sec. 2001.3025. ACCESS TO CRIMINAL HISTORY RECORD INFORMATION. The commission is entitled to conduct an investigation of and is entitled to obtain criminal history record information maintained by the Department of Public Safety, the Federal Bureau of Investigation identification division, or another law enforcement agency to assist in the investigation of:

(1) an applicant for or holder of a license issued under this chapter;

(2) a person required to be named in a license application; or

(3) an employee or other person who works or will work for a license holder and who is required by another provision of this chapter to undergo a criminal background check.

SECTION 19. Section 2001.306(c), Occupations Code, is amended to read as follows:

(c) The holder of a license to conduct bingo may not change the location at which it conducts bingo until it has:

(1) returned [surrendered] its original license if available, or certified that the license is not available; and

(2) received an amended license for the new location.
SECTION 20. Section 2001.313, Occupations Code, is amended by amending Subsections (a), (b), (d), (e), (f), and (g) and adding Subsections (b-1), (h), and (i) to read as follows:

(a) To minimize duplicate criminal history background checks by the commission and the costs incurred by organizations and individuals, the commission shall maintain a registry of 

individuals [persons] on whom the commission has conducted a criminal history background check and who are approved to be involved in the conduct of bingo or to act as a bingo operator.

(b) An individual [A person] listed in the registry may be involved in the conduct of bingo or act as an operator at any location at which bingo is lawfully conducted.

(b-1) An individual’s listing on the registry expires on the third anniversary of the date the individual was initially included on the registry. The individual may renew the listing before the expiration date. If the individual fails to renew the listing, the commission shall remove the individual’s name from the registry. An individual whose name is removed from the registry may reapply for listing on the registry.

(d) An individual [A person] who is not listed on the registry established by this section may not act, and a licensed authorized organization may not allow the individual to act, as an operator, manager, cashier, usher, caller, bingo chairperson, bookkeeper, or salesperson for the [a] licensed authorized organization.

(e) The commission may refuse to add an individual’s [a person’s] name to, or remove an individual’s [a person’s] name from, the registry established by this section if, after notice and, if requested by the individual, a hearing, the individual [person] is finally determined to have:

(1) been convicted of an offense listed under Section 2001.105(b);
(2) converted bingo equipment in a premises to an improper use;
(3) converted funds that are in, or that should have been in, the bingo account of any licensed authorized organization;
(4) taken any action, individually or in concert with another person, that affects the integrity of any bingo game to which this chapter applies; [or]
(5) acted as an operator, manager, cashier, usher, caller, bingo chairperson, bookkeeper, or salesperson for a licensed authorized organization without being listed on the registry established under this section;
(6) failed to provide a complete application; or
(7) participated in any violation of this chapter or rules adopted by the commission for the administration of this chapter.

(f) A licensed authorized organization shall report to the commission or its designee the discovery of any conduct on the part of an individual [a person] registered or required to be registered under this section where there is substantial basis for believing that the conduct would constitute grounds for removal of the individual’s [person’s] name from, or refusal to add the individual’s [person’s] name to, the registry established by this section. A statement made in good faith to the commission or to an adjudicative body in connection with any such report may not be the basis for an action for defamation of character.

(g) An individual [A person] who has been finally determined to have taken action prohibited by Subsection (e)(2), (3), (4), [or] (5), (6), or (7) cannot be listed on the registry of approved bingo workers and cannot work as a bingo worker for one year from the date of such determination. Upon expiration of the one-year period, the individual [person] is eligible for listing on the registry provided a licensee subject to this chapter makes application to list the individual [person]. In such event, the commission shall take into consideration the facts and circumstances that occurred that led to the applicable action under Subsections (e)(2)–(7) [e(2)–(5)] in deciding whether to list the individual [person] on the registry.

(h) A licensed authorized organization may employ an individual who is not on the registry established by this section as an operator, manager, cashier, usher, caller, or salesperson on a provisional basis if the individual is awaiting the results of a background check by the commission.
(1) for a period not to exceed 14 days if the individual is a resident of this state; or
(2) for a period to be established by commission rule if the individual is not a resident of this state.

(i) An individual who has been removed from the registry under Subsection (e) and has not subsequently been listed on the registry under Subsection (g) may not be employed under Subsection (h).

SECTION 21. Section 2001.314, Occupations Code, is amended to read as follows:

Sec. 2001.314. IDENTIFICATION CARD FOR APPROVED BINGO WORKER. (a) The commission may require an individual [a person] listed in the registry maintained under Section 2001.313 to wear an identification card to identify the individual [person] to license holders, bingo players, and commission staff while the individual [person] is on duty during the conduct of bingo. The commission by rule shall prescribe the form and content of the card.

(b) The commission shall provide the identification card and shall provide a form to be completed by an individual [a person] that allows the individual [person] to prepare the identification card. The commission may [shall] collect a reasonable charge to cover the cost of providing the card or form.

(c) An identification card required by the commission under this section to be worn by an individual [a person] while on duty during the conduct of bingo must be in substantial compliance with the form and content requirements prescribed by the commission under this section.

(d) The commission may not require any other individual [person] licensed under this chapter, or an individual [a person] acting on the license holder’s behalf, to wear an identification card, whether or not the individual [person] is present or performing the individual’s [person’s] duties during the conduct of bingo.

SECTION 22. Subchapter G, Occupations Code, is amended by adding Sections 2001.315 and 2001.316 to read as follows:

Sec. 2001.315. LATE LICENSE RENEWAL. (a) A person who fails to renew the person’s license under this chapter before the date the license expires may renew the license after the expiration date by:

(1) filing a license renewal application with the commission not later than the 14th day after the date the license expires, paying the applicable annual license fee, and paying a late license renewal fee equal to 10 percent of the annual license fee; or

(2) filing a license renewal application with the commission not later than the 60th day after the date the license expires, paying the applicable annual license fee, and paying a late license renewal fee equal to 10 percent of the annual license fee for each 14-day period occurring after the date the license expires and before the date the renewal application is filed with the commission.

(b) A person who files a renewal application with the commission under Subsection (a) may continue to perform the bingo activities authorized under the license as if the license has not expired until the license is renewed or renewal of the license is denied.

(c) To renew a license after the 60th day after the date the license expires, the person must file an application for an original license and cease all bingo activities for which the license is required as of the 61st day after the date the license expires until a new license is issued.

Sec. 2001.316. DELIVERY OF COMMISSION NOTICE. If notice under this chapter is required to be given to an authorized organization, the commission shall send the notice to the bingo chairperson of the authorized organization and to the appropriate commercial lessor, if applicable.

SECTION 23. Section 2001.356(c), Occupations Code, is amended to read as follows:

(c) If a notice of temporary suspension is served on a license holder, the director of bingo operations shall simultaneously serve notice of a hearing, to be held not later than the 14th [10th] day after the date the notice is served, at which the license holder must show cause why the license should not be temporarily suspended on the 14th [10th] day after the date the notice is served. If the license holder does not show cause, the license is suspended.
SECTION 24. Section 2001.404, Occupations Code, is amended to read as follows:

Sec. 2001.404. PRINCIPAL LOCATION. A licensed authorized organization may conduct bingo only in:

(1) the county where the organization has its primary business office or another county contiguous to that county; or

(2) if the organization does not have a business office, in the county of the principal residence of its chief executive officer, or a contiguous county of this state.

SECTION 25. Section 2001.406(b), Occupations Code, is amended to read as follows:

(b) Rent for premises used for the conduct of bingo must be paid in a lump sum. Except as otherwise provided by this section, the lump sum must include all expenses authorized by Section 2001.458 that are paid by the licensed authorized organization to the lessor in connection with the use of the premises. A licensed authorized organization or unit may pay as a separate expense, based on the percentage of the total area of the lessor’s facility that the organization or unit uses as the bingo premises for the conduct of bingo, the organization’s or unit’s pro rata share of:

(1) property taxes on the facility that are paid by the lessor, excluding any penalties and interest on the taxes;

(2) water, electric, and gas utility expenses for the facility that are paid by the lessor, excluding any late fees or other penalties; and

(3) property and casualty insurance premiums for the facility that are paid by the lessor, excluding any late fees or other penalties.

SECTION 26. Section 2001.407(a), Occupations Code, is amended to read as follows:

(a) A licensed manufacturer may furnish, by sale or otherwise, bingo equipment or supplies to a licensed distributor. A licensed manufacturer may not furnish, by sale or otherwise, bingo equipment or supplies to a person other than a licensed distributor.

SECTION 27. Section 2001.411, Occupations Code, is amended by adding Subsection (c-1) to read as follows:

(c-1) An organization may designate as members of the organization one or more individuals who elect to become members, including all of the organization’s directors, and the designated members are bona fide members of the organization for purposes of this section and other law.

SECTION 28. Section 2001.419, Occupations Code, is amended to read as follows:

(a) [A bingo occasion begins when the premises are opened to the public.]

[Sec. 2001.419. BINGO OCCASIONS. (a) [A bingo occasion begins when the premises are opened to the public.]

(b) A licensed authorized organization may conduct no more than three bingo occasions during a calendar week under an annual license and not to exceed more than four hours during a 24-hour period.

(b) [A licensed authorized organization may conduct no more than three bingo occasions during a calendar week under an annual license and not to exceed more than four hours during a 24-hour period.

(c) [A licensed authorized organization may conduct two bingo occasions during a 24-hour period.] No more than two bingo occasions may be conducted at the same premises during one day except that a third bingo occasion may be conducted under a temporary license held by a licensed authorized organization at that premises.

(d) [No more than two licensed authorized organizations may conduct bingo at the same premises during a 24-hour period.] If more than one bingo occasion is conducted at the same premises on the same day:

(1) during a 24-hour period, the bingo occasions must be announced separately;

(2) the licensed times may not overlap; and

(j) bingo cards may be sold during a bingo occasion for play during a subsequent bingo occasion that is scheduled to begin at the same premises in not more than eight hours after the sale of cards for the subsequent occasion begins, and an intermission of at least 10 minutes must occur between the bingo occasions].

(j) bingo cards may be sold during a bingo occasion for play during a subsequent bingo occasion that is scheduled to begin at the same premises in not more than eight hours after the sale of cards for the subsequent occasion begins, and an intermission of at least 10 minutes must occur between the bingo occasions].
(e) Bingo paper for a bingo occasion may be sold at the licensed premises before the bingo occasion begins. [If two licensed authorized organizations are authorized to conduct bingo at the same premises on the same day, the bingo occasion of one organization may overlap with the bingo occasion of the other organization, but their games must be separated by the intermission required under Subsection (d). In that event, the intermission is considered part of each organization’s bingo occasion.]

SECTION 29. Subchapter I-1, Chapter 2001, Occupations Code, is amended by adding Section 2001.4335 to read as follows:

Sec. 2001.4335. EXEMPTION FROM FRANCHISE TAX. A unit formed under this subchapter is exempt from the tax imposed under Chapter 171, Tax Code.

SECTION 30. Section 2001.435(b), Occupations Code, is amended to read as follows:

(b) Each member of a unit shall deposit into the unit’s bingo account all funds derived from the conduct of bingo, less the amount awarded as cash prizes under Sections 2001.420(a) and (b). The deposit shall be made not later than the second [next] business day after the day of the bingo occasion on which the receipts were obtained.

SECTION 31. Section 2001.451, Occupations Code, is amended by amending Subsections (a), (b), (c), (d), and (e) and adding Subsections (g), (h), (i), (j), and (k) to read as follows:

(a) A licensed authorized organization shall establish and maintain one regular checking account designated as the organization’s “bingo account.” The organization may maintain a separate interest-bearing savings account designated as the “bingo savings account.”

(b) A licensed authorized organization shall deposit in the bingo account all funds derived from the conduct of bingo, less the amount awarded as cash prizes under Sections 2001.420(a) and (b). Except as provided by Subsection (b-1), a deposit must be made not later than the second [next] business day after the day of the bingo occasion on which the receipts were obtained.

(c) A licensed authorized organization may transfer money from its general fund or other account to the organization’s bingo account or to the bingo account of a unit of which the organization is a member under Subchapter I-1, if applicable, if:

(1) the balance in the bingo account to which the funds are transferred is less than the maximum amount permitted by this section; and

(2) the organization notifies the commission of the transfer not later than the 14th day after the date of the transfer. [Except as provided by this section, no funds may be deposited in the bingo account.]

(d) Except as permitted by Subsection (c), a licensed authorized organization may not commingle gross receipts derived from the conduct of bingo with other funds of the organization.

(e) Except as permitted by Subsection (c) of this section and by Section 2001.453(2), a licensed authorized organization may not transfer gross receipts derived from the conduct of bingo to another account maintained by the organization.

(g) The bingo operations of a licensed authorized organization must:

(1) result in net proceeds over the organization’s license period; or

(2) if the organization has a two-year license, result in net proceeds over each 12-month period that ends on an anniversary of the date the two-year license was issued.

(h) Except as provided by Subsection (j), a licensed authorized organization or a unit of licensed authorized organizations may retain operating capital in the organization’s or unit’s bingo account in an amount that:

(1) is equal to the organization’s or unit’s actual average bingo expenses per quarter based on the preceding license period, excluding prizes paid; and

(2) does not exceed a total of $50,000 for a single organization or $50,000 for each member of a unit unless:

(A) the commission by rule establishes a higher amount for all organizations or units or one or more classes of organizations or units; or
(B) the bingo operations director, on request, raises the operating capital limit for one organization or unit as necessary to facilitate the operation of the organization or unit.

(i) Prize fees held in escrow for remittance to the commission are not included in the calculation of operating capital under Subsection (h).

(j) The commission shall adopt rules allowing a licensed authorized organization to retain a maximum amount of operating capital in the bingo account in excess of the amount provided by Subsection (h) if the organization:

(1) has conducted bingo for less than one year;
(2) experiences circumstances beyond the control of the organization, including force majeure, that necessitate an increase in operating capital; or
(3) provides to the commission a credible business plan for the conduct of bingo or for the organization’s existing or planned charitable purposes that an increase in operating capital will reasonably further.

(k) A licensed authorized organization may apply to the commission for a waiver of the requirements of this section and Section 2001.457. The commission may grant the waiver on a showing of good cause by the organization that compliance with this section and Section 2001.457 is detrimental to the organization’s existing or planned charitable purposes. An organization applying for a waiver establishes good cause by providing to the commission:

(1) credible evidence of circumstances beyond the control of the organization, including force majeure; or
(2) a credible business plan for the organization’s conduct of bingo or the organization’s existing or planned charitable purposes.

SECTION 32. Sections 2001.452(a) and (c), Occupations Code, are amended to read as follows:

(a) Funds from the bingo account must be withdrawn by electronic funds transfer or by preprinted, consecutively numbered checks or withdrawal slips, signed by an authorized representative of the licensed authorized organization and made payable to a person. A check or withdrawal slip may not be made payable to “cash,” “bearer,” or a fictitious payee. The nature of the payment made must also be noted on the face of the check or withdrawal slip. The purpose, amount, and payee for each electronic funds transfer must be recorded in accordance with rules adopted by the commission.

(b) A licensed authorized organization shall keep and account for all checks and withdrawal slips, including voided checks and withdrawal slips.

SECTION 33. Section 2001.453, Occupations Code, is amended to read as follows:

Sec. 2001.453. AUTHORIZED USES OF BINGO ACCOUNT. [(a)] A licensed authorized organization may withdraw funds from its bingo account only for:

(1) the payment of necessary or and reasonable bona fide expenses, including compensation of personnel, as permitted under Section 2001.458 incurred and paid in connection with the conduct of bingo; or
(2) the disbursement of net proceeds derived from the conduct of bingo as provided by

this subchapter [to charitable purposes; or

[3] the transfer of net proceeds derived from the conduct of bingo to the organization’s bingo savings account pending a disbursement to a charitable purpose.

[4] A licensed authorized organization must make the disbursement of net proceeds on deposit in the bingo savings account to a charitable purpose by transferring the intended disbursement back into the organization’s bingo account and then withdrawing an amount by a check drawn on the bingo account.

SECTION 34. Sections 2001.457(a), (b), and (c), Occupations Code, are amended to read as follows:

(a) Before the end of each quarter, a licensed authorized organization shall disburse all [for charitable purposes an amount not less than 35 percent of the organization’s net proceeds] from the preceding quarter, other than amounts retained under

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Section 2001.451, as provided by this subchapter [less the amount of authorized expenses not to exceed six percent of the gross receipts].

(b) If a licensed authorized organization fails to meet the requirements of Subsection (a) [this section] for a quarter, the commission in applying appropriate sanctions shall [may] consider whether, taking into account the amount required to be disbursed [distributed] during that quarter and the three preceding quarters [and the charitable distributions for each of those quarters], the organization has disbursed [distributed] a total amount sufficient to have met the disbursement [35 percent] requirement for that quarter and the three preceding quarters combined.

(c) A licensed authorized organization that has ceased to conduct bingo for any reason and that has unexpended bingo funds shall disburse those funds as provided by this subchapter [to charitable purposes] before the end of the next calendar quarter after the calendar quarter in which the organization ceases to conduct bingo.

SECTION 35. Section 2001.458(a), Occupations Code, is amended to read as follows:

(a) An item of expense may not be incurred or paid in connection with the conduct of bingo except an expense that is reasonable or necessary to conduct bingo, including an expense for:

1. advertising, including the cost of printing bingo gift certificates;
2. security;
3. repairs to premises and equipment;
4. bingo supplies and equipment;
5. prizes;
6. stated rental or mortgage and insurance expenses;
7. bookkeeping, legal, or accounting services related to bingo;
8. fees for callers, cashiers, ushers, janitorial services, and utility supplies and services;
9. license fees;
10. attending a bingo seminar or convention required under Section 2001.107; and
11. debit card transaction fees and electronic funds transfer fees.

SECTION 36. Section 2001.459(a), Occupations Code, is amended to read as follows:

(a) The following items of expense incurred or paid in connection with the conduct of bingo must be paid from an organization's bingo account:

1. advertising, including the cost of printing bingo gift certificates;
2. security during a bingo occasion;
3. the purchase or repair of bingo supplies and equipment;
4. prizes, other than authorized cash prizes;
5. stated rental expenses;
6. bookkeeping, legal, or accounting services;
7. fees for callers, cashiers, and ushers;
8. janitorial services; and
9. license fees; and
10. payment for services provided by a system service provider.

SECTION 37. Section 2001.502, Occupations Code, is amended to read as follows:

Sec. 2001.502. PRIZE FEE. A licensed authorized organization shall:

1. collect from a person who wins a bingo prize of more than $5 a fee in the amount of five percent of the amount or value of the prize; and
2. remit to the commission a fee in the amount of five percent of the amount or value of all bingo prizes awarded.

SECTION 38. Sections 2001.505(a) and (b), Occupations Code, are amended to read as follows:
(a) A licensed authorized organization conducting bingo shall submit quarterly to the commission [and to the comptroller] a report under oath stating:

1. the amount of the gross receipts derived from bingo;
2. each item of expense incurred or paid;
3. each item of expenditure made or to be made, the name and address of each person to whom each item has been paid or is to be paid, and a detailed description of the merchandise purchased or the services rendered;
4. the net proceeds derived from bingo;
5. the use to which the proceeds have been or are to be applied; and
6. a list of prizes offered and given, with their respective values.

(b) A license holder shall:

1. maintain records to substantiate the contents of each report;
2. furnish a copy of each report to the appropriate governing body.

SECTION 39. Section 2001.603(b), Occupations Code, is amended to read as follows:

(b) Not later than the 21st [14th] day after the date on which the report is issued, the director shall give written notice of the report to the person alleged to have committed the violation.

SECTION 40. Sections 2001.656(a), (b), and (d), Occupations Code, are amended to read as follows:

(a) If a majority of the qualified voters voting on the question in a legalization election vote in favor of legalization, bingo is legalized throughout the political subdivision beginning on the 14th [40th] day after the date the result of the election is officially declared, except as otherwise provided as to a part of the political subdivision for which Section 2001.657 requires a contrary status.

(b) If a majority of the qualified voters voting on the question in a prohibitory election vote in favor of prohibition, bingo is prohibited throughout the political subdivision beginning on the 14th [44th] day after the date the result of the election is officially declared, except as otherwise provided as to a part of the political subdivision for which Section 2001.657 requires a contrary status.

(d) The governing body of a political subdivision in which a bingo election has been held shall not later than the 14th [14th] day after the date of the election give written notification to the commission of the results of the election. If as a result of the election bingo is legalized in the political subdivision, the governing body shall furnish the commission with a map prepared by the governing body indicating the boundaries of the political subdivision in which bingo may be conducted.

SECTION 41. Section 411.108, Government Code, is amended by adding Subsection (a-1) and amending Subsection (b) to read as follows:

(a-1) The Texas Lottery Commission is entitled to obtain from the department criminal history record information maintained by the department that relates to a person licensed under Chapter 2001, Occupations Code, or described by Section 2001.3025, Occupations Code.

(b) Criminal history record information obtained by the commission under Subsection (a) or (a-1) may not be released or disclosed to any person except on court order or as provided by Subsection (c).

SECTION 42. The following provisions of the Occupations Code are repealed:

1. Sections 2001.002(3) and (10);
2. Section 2001.057(b);
3. Section 2001.160(c);
4. Section 2001.161(a);
5. Section 2001.303;
6. Section 2001.402(b);
7. Section 2001.406(c);
(8) Section 2001.417;
(9) Section 2001.457(d);
(10) Section 2001.505(c);
(11) Section 2001.553(b); and

SECTION 43. The Texas Lottery Commission shall adopt the rules required by Chapter 2001, Occupations Code, as amended by this Act, not later than April 1, 2010.

SECTION 44. (a) If on or after the effective date of this Act a licensed authorized organization has a balance in its bingo account of more than the maximum amount of operating capital allowed by Chapter 2001, Occupations Code, as amended by this Act, the organization shall distribute the funds in excess of the organization’s maximum operating capital allowed by Chapter 2001, Occupations Code, as amended by this Act, not later than:

1. the first anniversary of the effective date of this Act if the excess amount is less than 200 percent of the maximum amount of operating capital;
2. the second anniversary of the effective date of this Act if the excess amount is 200 percent or more but less than 300 percent of the maximum amount of operating capital; or
3. the third anniversary of the effective date of this Act if the excess amount is 300 percent or more of the maximum amount of operating capital.

(b) The Texas Lottery Commission may waive the requirements of Subsection (a) of this section on application and a showing of good cause by a licensed authorized organization.

(c) This section expires January 1, 2013.

SECTION 45. This Act takes effect October 1, 2009.

Passed by the House on May 1, 2009: Yeas 125, Nays 16, 1 present, not voting; passed by the Senate on May 26, 2009: Yeas 30, Nays 1.

Approved June 19, 2009.
Effective October 1, 2009.

CHAPTER 637

H.B. No. 1551

AN ACT

relating to the appointment of additional official court reporters for the district courts in Nueces County.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Subchapter D, Chapter 52, Government Code, is amended by adding Section 52.049 to read as follows:

Sec. 52.049. ADDITIONAL DISTRICT COURT REPORTERS IN NUECES COUNTY.
(a) The judges of the district courts in Nueces County may employ additional official court reporters to serve the district courts in Nueces County if a majority of the district court judges believe more official court reporters are necessary.

(b) The district court judges shall, by majority vote, determine the method of hiring the additional official court reporters.

(c) The presiding judge of the district courts of Nueces County shall determine the assignments of the additional official court reporters.

(d) The total number of official court reporters serving the district courts of Nueces County may not exceed the amount that equals one and one-half full-time employees multiplied by the number of district courts in Nueces County.

SECTION 2. This Act takes effect September 1, 2009.

Passed by the House on April 22, 2009: Yeas 149, Nays 0, 1 present, not voting; passed by the Senate on May 26, 2009: Yeas 31, Nays 0.