

1-1 By: Flores, Raymond (Senate Sponsor - Lucio) H.B. No. 2519
1-2 (In the Senate - Received from the House May 9, 2003;
1-3 May 13, 2003, read first time and referred to Committee on
1-4 Government Organization; May 24, 2003, reported adversely, with
1-5 favorable Committee Substitute by the following vote: Yeas 5,
1-6 Nays 0; May 24, 2003, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 2519 By: Ratliff

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the regulation of bingo.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Section 2001.002, Occupations Code, is amended
1-13 by amending Subdivision (5) to read as follows:

1-14 (5) "Bingo equipment" means equipment used, made, or sold
1-15 for the purpose of use in bingo. The term:

1-16 (A) includes:

1-17 (i) a machine or other device from which balls or other
1-18 items are withdrawn to determine the letters and numbers or other
1-19 symbols to be called;

1-20 (ii) an electronic or mechanical cardminding device;

1-21 (iii) a pull-tab dispenser;

1-22 (iv) a bingo card; ~~and~~

1-23 (v) a bingo ball; and

1-24 (vi) any other device commonly used in the direct operation
1-25 of a bingo game; and

1-26 (B) does not include:

1-27 (i) a bingo game set commonly manufactured and sold as a
1-28 child's game for a retail price of \$20 or less unless the set or a
1-29 part of the set is used in bingo subject to regulation under this
1-30 chapter; or

1-31 (ii) a commonly available component part of bingo equipment
1-32 such as a light bulb or ~~[7] fuse~~ ~~[, or bingo ball]~~.

1-33 SECTION 2. Subchapter B, Chapter 2001, Occupations Code, is
1-34 amended by adding Section 2001.059 to read as follows:

1-35 Sec. 2001.059. ADVISORY OPINIONS. (a) A person may
1-36 request from the commission an advisory opinion regarding
1-37 compliance with this chapter and the rules of the commission.

1-38 (b) The commission shall respond to a request under
1-39 Subsection (a) not later than the 60th day after the date a request
1-40 is received, unless the commission determines that the request does
1-41 not contain sufficient facts to provide an answer on which the
1-42 requestor may rely. In that event, the commission shall request
1-43 additional information from the requestor not later than the 10th
1-44 day after the date the request is received. If the commission
1-45 requests additional information, the commission shall respond to
1-46 the request not later than the 60th day after the date additional
1-47 information is received pursuant to the request for additional
1-48 information.

1-49 (c) A person who request an advisory opinion under
1-50 Subsection (a) may act in reliance on the opinion in the conduct of
1-51 any activity under any license issued under this chapter if the
1-52 conduct is substantially consistent with the opinion and the facts
1-53 stated in the request.

1-54 (d) An advisory opinion issued under this section is not a
1-55 rule under Subchapter B of Texas Government Code Chapter 2001, and
1-56 the rulemaking requirements of that subchapter do not apply to a
1-57 request for an advisory opinion or any advisory opinion issued by
1-58 the commission.

1-59 (e) Nothing in this section precludes the commission from
1-60 requesting an attorney general opinion under Section 402.042,
1-61 Government Code. In the event the commission requests an attorney
1-62 general opinion on a matter that is the subject of an advisory
1-63 opinion request under this section, the deadlines established under

2-1 Subsection (b) are tolled until thirty days following the issuance
2-2 of the attorney general opinion.

2-3 (f) The commission may delegate all or part of the authority
2-4 and procedures for issuing advisory opinions under this section to
2-5 an employee of the commission.

2-6 SECTION 3. Section 2001.103, Occupations Code, is amended
2-7 by adding Subsection (e)-(h) to read as follows:

2-8 (e) Notwithstanding Subsection (c), an authorized
2-9 organization that holds a regular license to conduct bingo may
2-10 receive not more than 12 temporary licenses during the 12-month
2-11 period following the issuance or renewal of the license.

2-12 (f) An authorized organization that holds a regular license
2-13 to conduct bingo may apply for all or any portion of the total
2-14 number of temporary licenses to which the organization is entitled
2-15 under Subsection (e) in one application without stating the days or
2-16 times for which the organization will use the temporary licenses.

2-17 (g) An organization that has been issued a temporary license
2-18 under Subsection (f) shall notify the commission of the specific
2-19 date and time of the bingo occasion for which the temporary license
2-20 will be used before using the license. If the commission receives
2-21 the notification by noon of the day before the day the temporary
2-22 license will be used, the commission shall verify receipt of the
2-23 notice before the end of the business day on which the notice is
2-24 received. If the commission does not receive the notification by
2-25 noon of the day before the day the temporary license will be used,
2-26 the commission shall verify receipt of the notice before noon of the
2-27 business day that follows the day the commission received the
2-28 notice.

2-29 (h) A verification under Subsection (g) may be delivered by
2-30 facsimile, e-mail, or any other means reasonably contemplated to
2-31 arrive before the time the temporary license will be used.

2-32 SECTION 4. Section 2001.104, Occupations Code, is amended
2-33 by adding Subsection (d) to read as follows:

2-34 (d) An applicant shall pay the fees established under
2-35 Subsection (a) annually. An applicant for a license or renewal of a
2-36 license may obtain a license that is effective for two years by
2-37 paying an amount equal to two times the amount of the annual license
2-38 fee plus \$25.

2-39 SECTION 5. Section 2001.105, Occupations Code, is amended
2-40 by adding Subsection (c) to read as follows:

2-41 (c) Except as provided by Section 2001.104(d), a license
2-42 issued under this subchapter is effective for one year.

2-43 SECTION 6. Subchapter C, Chapter 2001, Occupations Code, is
2-44 amended by adding Section 2001.108 to read as follows:

2-45 Sec. 2001.108. LICENSE AMENDMENT FOR CHANGE OF BINGO
2-46 PREMISES OR OCCASIONS. (a) A licensed authorized organization and
2-47 the licensed commercial lessor at which the organization conducts
2-48 or will conduct bingo may file a joint application with the
2-49 commission to change the premises at which the organization may
2-50 conduct bingo or the times of the organization's bingo occasions to
2-51 allow the organization to conduct bingo at the same time and
2-52 premises that another licensed authorized organization is licensed
2-53 to conduct bingo, if the other organization has ceased, or will
2-54 cease, conducting bingo at that time and premises. The application
2-55 must state whether the other organization has ceased or will cease
2-56 conducting bingo at that time and premises because:

2-57 (1) the organization has abandoned or will abandon its
2-58 licensed time or premises; or

2-59 (2) the organization's lease has been or will be terminated.

2-60 (b) If the other organization ceased or will cease
2-61 conducting bingo for the reason stated in Subsection (a)(1), the
2-62 commission must act on the joint application filed under Subsection
2-63 (a) not later than the 10th day after the date the application is
2-64 filed with the commission.

2-65 (c) If the other organization ceased or will cease
2-66 conducting bingo for the reason stated in Subsection (a)(2), the
2-67 commission must act on the joint application filed under Subsection
2-68 (a) not later than the 10th day after the date the application is
2-69 filed with the commission or the date on which the termination takes

3-1 effect, whichever is later.

3-2 (d) If the commission fails to act within the time provided
 3-3 by Subsection (b) or (c), the licensed authorized organization may
 3-4 act as if the change in premises or bingo occasions has been
 3-5 approved by the commission and may conduct bingo at the new premises
 3-6 or during the new bingo occasion until the commission acts on the
 3-7 application.

3-8 (e) Notwithstanding Subsection (d), the commission may
 3-9 issue temporary licenses to one or more licensed authorized
 3-10 organizations that conduct bingo at the same location as an
 3-11 organization that has ceased or will cease to conduct bingo, which
 3-12 are in addition to the number of temporary licenses each
 3-13 organization is entitled to under another provision of this
 3-14 chapter. The commission is not required to act on a joint
 3-15 application under Subsection (a) within the time provided by this
 3-16 section if the number of additional temporary licenses is
 3-17 sufficient to allow the other organizations at the location to
 3-18 conduct bingo during the licensed times of the organization that
 3-19 has ceased or will cease to conduct bingo.

3-20 SECTION 7. Section 2001.152, Occupations Code, is amended
 3-21 by adding Subsection (c) to read as follows:

3-22 (c) Notwithstanding Subsection (a), the commission may
 3-23 issue a commercial lessor license under Subsection (a)(2) or (3)
 3-24 only if there is not a licensed commercial lessor whose premises is
 3-25 located in the county in which an applicant for a license under
 3-26 Subsection (a)(2) or (3) proposes to locate a bingo premises. This
 3-27 subsection does not prohibit the renewal of an existing license.
 3-28 This subsection expires September 1, 2005.

3-29 SECTION 8. Section 2001.158, Occupations Code, is amended
 3-30 by adding Subsection (d) to read as follows:

3-31 (d) An applicant for a commercial lessor license shall pay
 3-32 the fees established under Subsection (a) annually. An applicant
 3-33 for a license or renewal of a license may obtain a license that is
 3-34 effective for two years by paying an amount equal to two times the
 3-35 amount of the annual license fee plus \$25.

3-36 SECTION 9. Section 2001.159(c), Occupations Code, is
 3-37 amended to read as follows:

3-38 (c) Except as provided by Section 2001.158(d), the [The]
 3-39 period may not exceed one year.

3-40 SECTION 10. Section 2001.214, Occupations Code, is amended
 3-41 to read as follows:

3-42 Sec. 2001.214. LICENSE TERM. (a) Except as provided by
 3-43 Subsection (b), a [A] manufacturer's or distributor's license is
 3-44 effective for one year unless revoked or suspended by the
 3-45 commission.

3-46 (b) A manufacturer or distributor may obtain a license that
 3-47 is effective for two years by paying an amount equal to two times
 3-48 the amount of the annual license fee plus \$1,000.

3-49 SECTION 11. Section 2001.218(a), Occupations Code, is
 3-50 amended to read as follows:

3-51 (a) Each sale or lease of bingo supplies or equipment to a
 3-52 license holder under this chapter must be on terms of immediate
 3-53 payment or on terms requiring payment not later than the 30th day
 3-54 after the date of actual delivery.

3-55 SECTION 12. Section 2001.307, Occupations Code, is amended
 3-56 to read as follows:

3-57 Sec. 2001.307. MAXIMUM LICENSE TERM. Except as otherwise
 3-58 provide by this chapter, a [A] license issued under this chapter may
 3-59 not be effective for more than one year.

3-60 SECTION 13. Subchapter G, Chapter 2001, Occupations Code,
 3-61 is amended by adding Sections 2001.313 and 2001.314 to read as
 3-62 follows:

3-63 Sec. 2001.313. REGISTRY OF APPROVED BINGO WORKERS. (a) To
 3-64 minimize duplicate criminal history background checks by the
 3-65 commission and the costs incurred by organizations and individuals,
 3-66 the commission shall maintain a registry of persons on whom the
 3-67 commission has conducted a criminal history background check and
 3-68 who are approved to be involved in the conduct of bingo or to act as
 3-69 a bingo operator.

4-1 (b) A person listed in the registry may be involved in the
 4-2 conduct of bingo or act as an operator at any location at which
 4-3 bingo is lawfully conducted.

4-4 (c) The commission shall make the registry information
 4-5 available to the public by publishing it on the commission's
 4-6 website and by responding to telephone, e-mail, and facsimile
 4-7 requests. This subsection does not require the commission to
 4-8 disclose information that is confidential by law.

4-9 (d) A person who is not listed on the registry established
 4-10 by this section may not act as an operator, manager, cashier, usher,
 4-11 caller or sales person for a licensed authorized organization.

4-12 (e) The commission may refuse to add a person's name to, or
 4-13 remove a person's name from, the registry established by this
 4-14 section if, after notice and a hearing, the person is finally
 4-15 determined to have:

4-16 (1) been convicted of an offense listed under Section
 4-17 2001.105(b);

4-18 (2) converted bingo equipment in a premises to an improper
 4-19 use;

4-20 (3) converted funds that are in, or that should have been
 4-21 in, the bingo account of any licensed authorized organization;

4-22 (4) taken any action, individually or in concert with
 4-23 another person, that affects the integrity of any bingo game to
 4-24 which this chapter applies; or

4-25 (5) acted as an operator, manager, cashier, usher, caller,
 4-26 or sales person for a licensed authorized organization without
 4-27 being listed on the registry established under this section.

4-28 (f) A licensed authorized organization shall report to the
 4-29 commission or its designee the discovery of any conduct on the part
 4-30 of a person registered or required to be registered under this
 4-31 section where there is substantial basis for believing that the
 4-32 conduct would constitute grounds for removal of the person's name
 4-33 from, or refusal to add the person's name to, the registry
 4-34 established by this section. A statement made in good faith to the
 4-35 commission or to an adjudicative body in connection with any such
 4-36 report may not be the basis for an action for defamation of
 4-37 character.

4-38 (g) A person who has been finally determined to have take
 4-39 action prohibited by Subsection (e)(2), (3), (4), or (5) cannot be
 4-40 listed on the registry of approved bingo workers and cannot work as
 4-41 a bingo worker for one year from the date of such determination.
 4-42 Upon expiration of the one year period, the person is eligible for
 4-43 listing on the registry provided a licensee subject to this chapter
 4-44 makes application to list the person. In such event, the commission
 4-45 shall take into consideration the facts and circumstances that
 4-46 occurred that lead to the applicable action under Subparagraph
 4-47 (e)(2)-(5) in deciding whether to list the person on the registry.

4-48 Sec. 2001.314. IDENTIFICATION CARD FOR APPROVED BINGO
 4-49 WORKER. (a) The commission may require a person listed in the
 4-50 registry maintained under Section 2001.313 to wear an
 4-51 identification card to identify the person to license holders,
 4-52 bingo players, and commission staff while the person is on duty
 4-53 during the conduct of bingo. The commission by rule shall prescribe
 4-54 the form and content of the card.

4-55 (b) The commission shall provide the identification card
 4-56 and shall provide a form to be completed by a person that allows the
 4-57 person to prepare the identification card. The commission shall
 4-58 collect a reasonable charge to cover the cost of providing the card
 4-59 or form.

4-60 (c) An identification card required by the commission under
 4-61 this section to be worn by a person while on duty during the conduct
 4-62 of bingo must be in substantial compliance with the form and content
 4-63 requirements prescribed by the commission under this section.

4-64 (d) The commission may not require any other person licensed
 4-65 under this chapter, or a person acting on the license holder's
 4-66 behalf, to wear an identification card, whether or not the person is
 4-67 present or performing the person's duties during the conduct of
 4-68 bingo.

4-69 SECTION 14. Section 2001.411, Occupations Code, is amended

5-1 by adding Subsection (e) to read as follows:

5-2 (e) The commission may not prohibit an operator responsible
 5-3 for conducting, promoting, or administering bingo from acting as a
 5-4 bingo caller for a licensed authorized organization during a bingo
 5-5 occasion. This subsection does not relieve the operator of the duty
 5-6 to be available to a commission employee or bingo player if required
 5-7 by this chapter.

5-8 SECTION 15. Subchapter I, Chapter 2001, Occupations Code,
 5-9 is amended by adding Section 2001.4115 to read as follows:

5-10 Sec. 2001.4115. JOINT EMPLOYMENT OF BINGO EMPLOYEES. Two
 5-11 or more licensed authorized organizations conducting bingo at the
 5-12 same premises may jointly hire bingo employees. One organization
 5-13 may act as the employee's employer and the other organization may
 5-14 reimburse the employing organization for the other organization's
 5-15 share of the employee's compensation and other employment-related
 5-16 costs. A reimbursement under this section is an authorized expense
 5-17 and must be made from the bingo account of the reimbursing
 5-18 organization.

5-19 SECTION 16. Section 2001.413, Occupations Code, is amended
 5-20 to read as follows:

5-21 Sec. 2001.413. ADMISSION CHARGE REQUIRED. Except as
 5-22 provided by Section 2001.4155, a [A] licensed authorized
 5-23 organization may not offer or provide to a person the opportunity to
 5-24 play bingo without charge.

5-25 SECTION 17. Section 2001.415, Occupations Code, is amended
 5-26 to read as follows:

5-27 Sec. 2001.415. ADVERTISEMENTS. (a) A person other than a
 5-28 licensed authorized organization, licensed commercial lessor, or
 5-29 the commission may not advertise bingo.

5-30 (b) A licensed authorized organization, licensed commercial
 5-31 lessor, or the commission may include in an advertisement or
 5-32 promotion the amount of a prize or series of prizes offered at a
 5-33 bingo occasion.

5-34 SECTION 18. Subchapter I, Chapter 2001, Occupations Code,
 5-35 is amended by adding Section 2001.4155 to read as follows:

5-36 Sec. 2001.4155. GIFT CERTIFICATES. (a) Nothing in this
 5-37 chapter prohibits a licensed authorized organization from selling
 5-38 or redeeming a gift certificate that entitles the bearer of the
 5-39 certificate to play a bingo game, including instant bingo.

5-40 (b) A licensed authorized organization that sells or
 5-41 redeems a gift certificate must keep adequate records relating to
 5-42 the gift certificate as provided by commission rule.

5-43 SECTION 19. Chapter 2001, Occupations Code, is amended by
 5-44 adding Subchapter I-1 to read as follows:

5-45 SUBCHAPTER I-1. UNIT ACCOUNTING

5-46 Sec. 2001.431. DEFINITIONS. In this subchapter:

5-47 (1) "Unit" means two or more licensed authorized
 5-48 organizations that conduct bingo at the same location joining
 5-49 together to share revenues, authorized expenses, and inventory
 5-50 related to bingo operations.

5-51 (2) "Unit accounting" means a method by which licensed
 5-52 authorized organizations that are members of a unit account for the
 5-53 sharing of revenues, authorized expenses, and inventory related to
 5-54 bingo operations.

5-55 (3) "Unit account agreement" means a written agreement by
 5-56 all the licensed authorized organizations that are members of a
 5-57 unit that contain, at a minimum:

5-58 (A) the taxpayer name and number of each licensed authorized
 5-59 organization that is a member of the unit;

5-60 (B) the method by which the net proceeds of the bingo
 5-61 operations of the unit will be apportioned among the members of the
 5-62 unit;

5-63 (C) the name of the unit manager or designated agent of the
 5-64 unit; and

5-65 (D) the methods by which the unit may be dissolved and by
 5-66 which one or more members of the unit may withdraw from
 5-67 participation in the unit, including the distribution of funds,
 5-68 records, and inventory and the allocation of authorized expenses
 5-69 and liabilities on dissolution or withdrawal of one or more members

6-1 of the unit.

6-2 (4) "Unit manager" means an individual licensed under this

6-3 subchapter to be responsible for the revenues, authorized expenses,

6-4 and inventory of a unit.

6-5 Sec. 2001.432. FORMING ACCOUNTING UNIT. (a) Two or more

6-6 licensed authorized organizations may form and operate a unit as

6-7 provided by this subchapter by:

6-8 (1) executing a unit accounting agreement; and

6-9 (2) stating in the unit accounting agreement whether the

6-10 unit will use:

6-11 (A) a unit manager; or

6-12 (B) a designated agent.

6-13 (b) More than one unit may be formed at a single location. A

6-14 licensed authorized organization may not be a member of more than

6-15 one unit.

6-16 (c) This subchapter does not require a licensed authorized

6-17 organization to join a unit. Except as provided by Subsection (d),

6-18 whether to join or withdraw from a unit is at the discretion of each

6-19 licensed authorized organization.

6-20 (d) The members of a unit may determine whether to allow

6-21 another licensed authorized organization to join the unit. The

6-22 terms of the withdrawal of a member from the unit are governed by

6-23 the unit accounting agreement.

6-24 Sec. 2001.433. APPLICABILITY OF CHAPTER. A licensed

6-25 authorized organization that uses unit accounting is subject to the

6-26 other provisions of this chapter to the extent the provisions are

6-27 applicable and are not inconsistent with this subchapter.

6-28 Sec. 2001.434. CONDUCT OF BINGO. (a) Each licensed

6-29 authorized organization that is a member of a unit shall conduct its

6-30 bingo games separately from the bingo games of the other members of

6-31 the unit.

6-32 (b) A unit may purchase or lease bingo supplies and

6-33 equipment in the same manner as a licensed authorized organization.

6-34 (c) A licensed distributor may sell or lease bingo supplies

6-35 or equipment to a unit in the same manner as the distributor sells

6-36 or leases bingo supplies and equipment to a licensed authorized

6-37 organization.

6-38 Sec. 2001.435. UNIT ACCOUNTING. (a) A unit:

6-39 (1) shall establish and maintain one checking account

6-40 designated as the unit's bingo account;

6-41 (2) shall maintain one inventory of bingo supplies and

6-42 equipment for use in the bingo operation of members of the unit; and

6-43 (3) may maintain an interest-bearing savings account

6-44 designated as the unit's bingo savings account.

6-45 (b) Each member of a unit shall deposit into the unit's

6-46 bingo account all funds derived from the conduct of bingo, less the

6-47 amount awarded as cash prizes under Sections 2001.420(a) and (b).

6-48 The deposit shall be made not later than the next business day after

6-49 the day of the bingo occasion on which the receipts were obtained.

6-50 (c) All authorized expenses and distributions of the unit

6-51 and its members shall be paid from the unit's bingo checking

6-52 account.

6-53 Sec. 2001.436. DISBURSEMENT OF FUNDS BY DISSOLVED UNIT.

6-54 (a) Sections 2001.457(a) and (b) apply to a unit formed under this

6-55 subchapter. For purposes of this subchapter, the requirements of

6-56 Sections 2001.457(a) and (b) that are applicable to a licensed

6-57 authorized organization shall be applied to a unit.

6-58 (b) A unit that has dissolved for any reason and has

6-59 unexpended bingo funds shall disburse those funds to the bingo

6-60 account of each member of the unit before the end of the next

6-61 calendar quarter after the calendar quarter in which the unit

6-62 dissolves.

6-63 (c) For purposes of the application of Sections 2001.457(a)

6-64 and (b) to a unit under this section:

6-65 (1) "adjusted gross receipts" means gross receipts less the

6-66 amount of cost of goods purchased by a unit and prizes paid in the

6-67 preceding quarter; and

6-68 (2) "cost of goods purchased by a unit" means the cost of

6-69 bingo paper and pull-tab bingo tickets purchased by the unit and

7-1 payments to distributors for electronic card-minding devices.

7-2 Sec. 2001.437. UNIT MANAGER; LICENSE. (a) If the unit
 7-3 accounting agreement of a unit states that a unit manager is
 7-4 responsible for compliance with commission rules and this chapter,
 7-5 the unit manager is responsible for:

7-6 (1) the filing of one quarterly report for the unit on a form
 7-7 prescribed by the commission; and

7-8 (2) the payment of taxes and fees and the maintenance the
 7-9 bingo inventory and financial records of the unit.

7-10 (b) A unit with a unit manager shall notify the commission
 7-11 of the name of the unit manager and immediately notify the
 7-12 commission of any change of unit manager.

7-13 (c) A person may not provide services as a unit manager to
 7-14 licensed authorized organizations that form a unit unless the
 7-15 person holds a unit manager license under this subchapter. A person
 7-16 designated as an agent under Section 2001.438(b) is not a unit
 7-17 manager on account of that designation for purposes of this
 7-18 section.

7-19 (d) An applicant for a unit manager license must file with
 7-20 the commission a written application on a form prescribed by the
 7-21 commission that includes:

7-22 (1) the name and address of the applicant;

7-23 (2) information regarding whether the applicant, or any
 7-24 officer, director, or employee of the applicant, has been convicted
 7-25 of a felony, criminal fraud, gambling or gambling-related offense,
 7-26 or crime of moral turpitude; and

7-27 (3) any other information required by commission rule.

7-28 (e) The commission by rule shall establish an annual license
 7-29 fee for a unit manager license in an amount reasonable to defray
 7-30 administrative costs plus any costs incurred to conduct a criminal
 7-31 background check.

7-32 (f) A person who holds a unit manager license shall post a
 7-33 bond or other security pursuant to Section 2001.514.

7-34 (g) A person is not eligible for a unit manager license
 7-35 under this subchapter if the person, or any officer, director, or
 7-36 employee of the person:

7-37 (1) has been convicted of a felony, criminal fraud, a
 7-38 gambling or gambling-related offense, or crime of moral turpitude,
 7-39 if less than 10 years has elapsed since the termination of a
 7-40 sentence, parole, or community supervision served for the offense;

7-41 (2) is an owner, officer, or director of a licensed
 7-42 commercial lessor, is employed by a licensed commercial lessor, or
 7-43 is related to a licensed commercial lessor within the second degree
 7-44 by consanguinity or affinity, unless the holder of the license is a
 7-45 licensed authorized organization or an association of licensed
 7-46 authorized organizations; or

7-47 (3) holds or is listed on another license under this
 7-48 chapter, unless the holder of the license is a licensed authorized
 7-49 organization or an association of licensed authorized
 7-50 organizations.

7-51 (h) A unit manager must complete the training required by
 7-52 Section 2001.107.

7-53 Sec. 2001.438. AGREEMENT WITHOUT UNIT MANAGER. (a) This
 7-54 section applies to a unit if the unit accounting agreement for the
 7-55 unit:

7-56 (1) does not state that a unit manager will be responsible
 7-57 for compliance with the rules of the commission and this chapter; or

7-58 (2) states that the unit will use a designated agent.

7-59 (b) The unit shall designate with the commission an agent
 7-60 who will be responsible for providing the commission access to all
 7-61 inventory and financial records of the unit on request of the
 7-62 commission.

7-63 (c) The agent designated under Subsection (b) may not:

7-64 (1) hold or be listed on another license issued under this
 7-65 chapter, unless the holder of the license is a licensed authorized
 7-66 organization or an association of licensed authorized
 7-67 organizations; or

7-68 (2) be an owner, officer, or director of a licensed
 7-69 commercial lessor, be employed by a licensed commercial lessor, or

8-1 be related to a licensed commercial lessor within the second degree
 8-2 by consanguinity or affinity, unless the holder of the license is a
 8-3 licensed authorized organization or an association of licensed
 8-4 authorized organizations.

8-5 (d) The unit shall immediately notify the commission of any
 8-6 change in the agent designated under Subsection (b).

8-7 (e) The designated agent must complete the training
 8-8 required by Section 2001.107.

8-9 (f) Each licensed authorized organization that is a member
 8-10 of the unit shall be jointly and severally liable for:

8-11 (1) compliance with the requirements of this subchapter and
 8-12 the rules of the commission relating to the filing of required
 8-13 reports;

8-14 (2) the maintenance of bingo inventory and financial
 8-15 records; and

8-16 (3) the payment of taxes, fees, and any penalties imposed
 8-17 for a violation of this subchapter or commission rules related to
 8-18 the operations of the unit.

8-19 (g) Each licensed authorized organization that is a member
 8-20 of the unit may be made a party to any administrative or judicial
 8-21 action relating to the enforcement of this subchapter or the rules
 8-22 of the commission pertaining to the operation of the unit.

8-23 Sec. 2001.439. TRUST AGREEMENT. (a) Notwithstanding any
 8-24 other provision of this subchapter, a unit may be formed pursuant to
 8-25 a trust agreement between two or more licensed authorized
 8-26 organizations that conduct bingo at the same location. The
 8-27 agreement must;

8-28 (1) designate one of the organizations as the trustee;

8-29 (2) designate a person who will carry out the duties
 8-30 described by Section 2001.438(b);

8-31 (3) specify the method by which the unit will comply with
 8-32 the requirements of Section 2001.436(a); and

8-33 (4) state that the trustee is responsible for compliance
 8-34 with the rules of the commission and this chapter.

8-35 (b) The commission by rule may prohibit a person from
 8-36 serving as a unit manager or as a designated agent for a unit that
 8-37 does not use a unit manager if the person has failed to comply with
 8-38 the duties required of the person as a unit manager or designated
 8-39 agent.

8-40 (c) The commission may prohibit a person who serves as a
 8-41 designated agent that is listed on a license under this chapter,
 8-42 including having been approved by the commission to work in the
 8-43 bingo operations of a licensed authorized organization or as an
 8-44 operator, from holding or being listed on any license or from being
 8-45 approved to work in the bingo operations of any licensed authorized
 8-46 organization or to serve as an operator if the person has failed to
 8-47 comply with the duties required of the person as a unit manager or
 8-48 designated agent.

8-49 SECTION 20. Section 2001.451, Occupations Code, is amended
 8-50 by amending Subsection (b) and adding Subsection (b-1) to read as
 8-51 follows:

8-52 (b) A licensed authorized organization shall deposit in the
 8-53 bingo account all funds derived from the conduct of bingo, less the
 8-54 amount awarded as cash prizes under Sections 2001.420(a) and (b).
 8-55 Except as provided by Subsection (b-1), a [A] deposit must be made
 8-56 not later than the next business day after the day of the bingo
 8-57 occasion on which the receipts were obtained.

8-58 (b-1) A licensed authorized organization may deposit funds
 8-59 derived from the conduct of bingo that are paid through a debit card
 8-60 transaction in the bingo fund not later than 72 hours after the
 8-61 transaction.

8-62 SECTION 21. Section 2001.454, Occupations Code, is amended
 8-63 to read as follows:

8-64 Sec. 2001.454. USE OF NET PROCEEDS FOR CHARITABLE PURPOSES.
 8-65 (a) A licensed authorized organization shall devote to the [a]
 8-66 charitable purposes of the organization [purpose] its net proceeds
 8-67 of bingo and any rental of premises.

8-68 (b) Except as otherwise provided by law, the [The] net
 8-69 proceeds derived from bingo and any rental of premises are

9-1 dedicated to the [a] charitable purposes of the organization
 9-2 [purpose] only if directed to a cause, deed, or activity that is
 9-3 consistent with the federal tax exemption the organization obtained
 9-4 under 26 U.S.C. Section 501 and under which the organization
 9-5 qualifies as a nonprofit organization as defined by Section
 9-6 2001.002[+]

9-7 ~~[(1) benefits an indefinite number of needy or deserving~~
 9-8 ~~persons in this state by:~~

9-9 ~~[(A) enhancing their opportunity for religious or~~
 9-10 ~~educational advancement;~~

9-11 ~~[(B) relieving them from disease, suffering, or distress;~~

9-12 ~~[(C) contributing to their physical well-being;~~

9-13 ~~[(D) assisting them in establishing themselves in life as~~
 9-14 ~~worthy and useful citizens; or~~

9-15 ~~[(E) increasing their comprehension of and devotion to the~~
 9-16 ~~principles on which this nation was founded and enhancing their~~
 9-17 ~~loyalty to their government; or~~

9-18 ~~[(2) initiates, performs, or fosters worthy public works in~~
 9-19 ~~this state or enables or furthers the erection or maintenance of~~
 9-20 ~~public structures in this state].~~ If the organization is not
 9-21 required to obtain a federal tax exemption under 26 U.S.C. Section
 9-22 501, the organization's net proceeds are dedicated to the
 9-23 charitable purposes of the organization only if directed to a
 9-24 cause, deed, or activity that is consistent with the purposes and
 9-25 objectives for which the organization qualifies as an authorized
 9-26 organization under Section 2001.002.

9-27 SECTION 22. Section 2001.458(a), Occupations Code, is
 9-28 amended to read as follows:

9-29 (a) An item of expense may not be incurred or paid in
 9-30 connection with the conduct of bingo except an expense that is
 9-31 [those expenses that are] reasonable or necessary to conduct bingo,
 9-32 including an expense [and necessarily expended] for:

9-33 (1) advertising, including the cost of printing bingo gift
 9-34 certificates;

9-35 (2) security;

9-36 (3) repairs to premises and equipment;

9-37 (4) bingo supplies and equipment;

9-38 (5) prizes;

9-39 (6) stated rental or mortgage and insurance expenses;

9-40 (7) bookkeeping, legal, or accounting services related to
 9-41 bingo;

9-42 (8) fees ~~[in amounts authorized by the commission]~~ for
 9-43 callers, cashiers, ushers, janitorial services, and utility
 9-44 supplies and services; ~~and]~~

9-45 (9) license fees;

9-46 (10) attending a bingo seminar or convention required under
 9-47 Section 2001.107; and

9-48 (11) debit card transaction fees.

9-49 SECTION 23. Section 2001.459(a), Occupations Code, is
 9-50 amended to read as follows:

9-51 (a) The following items of expense incurred or paid in
 9-52 connection with the conduct of bingo must be paid from an
 9-53 organization's bingo account:

9-54 (1) advertising, including the cost of printing bingo gift
 9-55 certificates;

9-56 (2) security during a bingo occasion;

9-57 (3) the purchase or repair of bingo supplies and equipment;

9-58 (4) prizes, other than authorized cash prizes;

9-59 (5) stated rental expenses;

9-60 (6) bookkeeping, legal, or accounting services;

9-61 (7) fees for callers, cashiers, and ushers;

9-62 (8) janitorial services;

9-63 (9) license fees; and

9-64 (10) payment for services provided by a system service
 9-65 provider.

9-66 SECTION 24. Section 2001.504(a), Occupations Code, is
 9-67 amended to read as follows:

9-68 (a) A tax or fee authorized or imposed under this subchapter
 9-69 is due and is payable by the license holder or a person conducting

bingo without a license to the commission quarterly on or before the 25th ~~15th~~ day of the month succeeding each calendar quarter.

SECTION 25. Section 2001.602(b), Occupations Code, is amended to read as follows:

(b) In determining the amount of the penalty, the ~~executive~~ director shall consider:

- (1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the prohibited acts;
- (2) the history of previous violations;
- (3) the amount necessary to deter future violations;
- (4) efforts to correct the violation; and
- (5) any other matter that justice may require.

SECTION 26. Sections 2001.603(a) and (b), Occupations Code, are amended to read as follows:

(a) If, after investigating a possible violation and the facts surrounding that possible violation, the ~~executive~~ director determines that a violation has occurred, the ~~executive~~ director may issue a violation report stating the facts on which the conclusion that a violation occurred is based, recommending that an administrative penalty be imposed on the person alleged to have committed the violation, and recommending the amount of the proposed penalty. The ~~executive~~ director shall base the recommended amount of the proposed penalty on the seriousness of the violation determined by consideration of the factors set out in Section 2001.602(b).

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

SECTION 27. Section 2001.604, Occupations Code, is amended to read as follows:

Sec. 2001.604. PENALTY TO BE PAID OR HEARING REQUESTED.

(a) Not later than the 20th day after the date the person receives the notice, the person may:

- (1) accept the recommendation of the ~~executive~~ director, including the recommended administrative penalty; or
- (2) make a written request for a hearing on the determination.

(b) If the person accepts the ~~executive~~ director's determination, the ~~executive~~ director by order shall approve the determination and impose the proposed penalty.

SECTION 28. Section 2001.605(a), Occupations Code, is amended to read as follows:

(a) If the person timely requests a hearing or does not respond to the notice in the time provided by Section 2001.604(a), the ~~executive~~ director shall set a hearing and give notice of the hearing to the person.

SECTION 29. Section 2001.606, Occupations Code, is amended to read as follows:

Sec. 2001.606. DECISION BY ~~EXECUTIVE~~ DIRECTOR. (a) Based on the findings of fact and conclusions of law and the recommendations of the hearings examiner, the ~~executive~~ director by order:

- (1) may find that a violation has occurred and may impose an administrative penalty; or
- (2) may find that a violation has not occurred.

(b) The ~~executive~~ director shall give notice of the order to the person. The notice must include:

- (1) separate statements of the findings of fact and conclusions of law;
- (2) the amount of any penalty imposed;
- (3) a statement of the right of the person to judicial review of the order; and
- (4) other information required by law.

SECTION 30. Sections 2001.607(b) and (c), Occupations Code, are amended to read as follows:

(b) Within the 30-day period, a person who acts under Subsection (a)(3) may:

- (1) stay enforcement of the penalty by:

11-1 (A) paying the penalty to the court for placement in an
11-2 escrow account; or

11-3 (B) giving to the court a supersedeas bond approved by the
11-4 court for the amount of the penalty that is effective until all
11-5 judicial review of the order is final; or

11-6 (2) request the court to stay enforcement of the penalty by:
11-7 (A) filing with the court a sworn affidavit of the person
11-8 stating that the person is financially unable to pay the penalty and
11-9 is financially unable to give the supersedeas bond; and

11-10 (B) giving a copy of the affidavit to the [~~executive~~]
11-11 director by certified mail.

11-12 (c) On receipt of a copy of the affidavit as provided by
11-13 Subsection (b)(2), the [~~executive~~] director may file with the
11-14 court, not later than the fifth day after the date the copy is
11-15 received, a contest to the affidavit. The court shall hold a
11-16 hearing on the facts alleged in the affidavit as soon as practicable
11-17 and shall stay the enforcement of the penalty on finding that the
11-18 alleged facts are true. The person who files an affidavit has the
11-19 burden of proving that the person is financially unable to pay the
11-20 penalty and to give a supersedeas bond.

11-21 SECTION 31. Section 2001.608, Occupations Code, is amended
11-22 to read as follows:

11-23 Sec. 2001.608. COLLECTION OF PENALTY. If the person does
11-24 not pay the administrative penalty and the enforcement of the
11-25 penalty is not stayed, the [~~executive~~] director may refer the
11-26 matter to the attorney general for collection of the penalty.

11-27 SECTION 32. Subchapter H, Chapter 151, Tax Code, is amended
11-28 by adding Section 151.3105 to read as follows:

11-29 Sec. 151.3105. BINGO EQUIPMENT PURCHASED BY CERTAIN
11-30 ORGANIZATIONS. Bingo equipment, as defined by Section 2001.002,
11-31 Occupations Code, is exempted from the taxes imposed by this
11-32 chapter if the bingo equipment is:

11-33 (1) purchased by an organization licensed to conduct bingo
11-34 under Chapter 2001, Occupations Code, that is exempt from the
11-35 payment of federal income taxes under Section 501(a), Internal
11-36 Revenue Code of 1986, as amended, by being listed as an exempt
11-37 organization under Section 501(c)(3), (4), (8), (10), or (19),
11-38 Internal Revenue Code of 1986, as amended; and

11-39 (2) used exclusively to conduct bingo authorized under
11-40 Chapter 2001, Occupations Code.

11-41 SECTION 33. Section 2001.409(b), Occupations Code, is
11-42 repealed.

11-43 SECTION 34. (a) The changes in law made by this Act
11-44 governing eligibility of a person for a license apply only to the
11-45 issuance or renewal of a license by the commission under Chapter
11-46 2001, Occupations Code, as amended by this Act, on or after the
11-47 effective date of this Act. A license issued by the commission
11-48 under those laws before the effective date of this Act is governed
11-49 by the applicable licensing requirements in effect when the license
11-50 was last issued or renewed until the license expires or is renewed
11-51 as provided by Chapter 2001, Occupations Code, as amended by this
11-52 Act.

11-53 (b) The change in law made by this Act to Section 2001.457,
11-54 Occupations Code, applies to the charitable disbursements made by a
11-55 licensed authorized organization beginning with disbursements for
11-56 the second quarter of 2004. A charitable disbursement made by a
11-57 licensed authorized organization for a quarter before the second
11-58 quarter of 2004 is governed by the law in effect immediately before
11-59 the effective date of this Act, and the former law is continued in
11-60 effect for that purpose.

11-61 (c) An authorized organization licensed to conduct bingo
11-62 before the effective date of this Act may renew its license,
11-63 notwithstanding that the organization has not been in existence for
11-64 the time required under a rule of the commission adopted under
11-65 section 2001.101, Occupations Code, if the organization meets all
11-66 other requirements for the renewal of the license.

11-67 SECTION 35. (a) Except as provided by Subsection (b) of
11-68 this section, this Act takes effect September 1, 2003.

11-69 (b) Section 151.3105, Tax Code, as added by this Act, takes

12-1 effect January 1, 2004.

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